

4
WHITE HOUSE CONTACTS WITH TREASURY/RTC
OFFICIALS ABOUT "WHITEWATER"-RELATED
MATTERS — PART 3

Y 4. B 22/1: 103-158

White House Contracts With Treasury...

HEARING
BEFORE THE
COMMITTEE ON BANKING, FINANCE AND
URBAN AFFAIRS
HOUSE OF REPRESENTATIVES
ONE HUNDRED THIRD CONGRESS

SECOND SESSION

AUGUST 3, 1994

Printed for the use of the Committee on Banking, Finance and Urban Affairs

Serial No. 103-158



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WHITE HOUSE CONTACTS WITH TREASURY/RTC OFFICIALS ABOUT “WHITEWATER”-RELATED MATTERS—PART 3

WEDNESDAY, AUGUST 3, 1994

HOUSE OF REPRESENTATIVES,
COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS,
Washington, DC.

The committee met, pursuant to notice, at 10 a.m., in room 2128, Rayburn House Office Building, Hon. Henry B. Gonzalez [chairman of the committee] presiding.

Present: Chairman Gonzalez, Representatives Neal, Vento, Schumer, Frank, Kanjorski, Kennedy, Flake, Mfume, Waters, LaRocco, Orton, Bacchus of Florida, Klein, Maloney, Deutsch, Gutierrez, Rush, Roybal-Allard, Barrett, Furse, Velazquez, Wynn, Fields, Watt, Hinchey, Dooley, Klink, Fingerhut, Leach, McCollum, Roukema, Bereuter, Ridge, Roth, McCandless, Baker, Nussle, Thomas, Johnson, Pryce, Linder, Knollenberg, Lazio, Grams, Bachus of Alabama, Huffington, Castle, King, and Sanders.

The CHAIRMAN. The committee will please come to order.

The witness, understandably, after his ordeal, is a little late, and we can save time by getting through with the preliminaries that are customary to the House procedure we go through.

This is the third day of hearings and what yet seems difficult to understand, even by Members of the House—though I must say that even Members outside of the membership of this committee have been most informed and understanding. The committee is operating under a House resolution mandate known as House Resolution 394, as implemented by the bipartisan leadership agreement as to scope, limitations, and likewise.

Overlooked is the fact that at the outset of the hearings, the first hearings, I placed in the record a letter from Speaker Foley in which, on my request, he reaffirmed the leadership's interpretation as to scope, and mostly reaffirming the commitment to avoid any unwarranted or improper intervention into the processes currently being conducted by the special counsel, Mr. Fiske.

So I want to reemphasize that so that those Members who may not be too informed or experienced with the House rules will know. We are not proceeding under our committee's agenda for, as I have said *ab initio*, from the beginning, we have to have a legislative purpose; and operating under House Resolution 394, as implemented by the bipartisan leadership. It must be stressed that as chairman of this committee, I have not set the scope, and I have not set the parameters, nor have I done anything but follow faithfully and scrupulously the rules of the House.

The rules of the House, which have been implemented for the committee, ironically, by our predecessor, Chairman Wright Patman, known as the 5-minute rule, was actually initiated as a House rule in 1847. Now, I don't know if the Mexican War had anything to do with it and they anticipated my being chairman someday later, but I had no more to do with that 5-minute rule than that. So I will adhere to the rules, as I have at all times; and no matter what, there isn't any person that can ever point to my violating, deviating, or modifying the House or the committee rules.

I have said repeatedly that those of us who presume to be law-makers must first obey the law and the rules governing us, a numerous body. This committee consists of 51 members; that is, half of the U.S. Senate, plus 1. So you are bound to have rules to govern a numerous body, as we do in the House with limited debate.

So, I think that at this point, in today's hearing, we are to hear from the Treasury witnesses. We have heard from the White House witnesses, as you will recall. On Friday, we hope to hear from the RTC personnel as previously announced to the members.

Now, this hearing this morning concerns the contacts that occurred between the White House, Treasury, and the RTC. Our witnesses today have been exhaustively examined in depositions, staff interviews, and hearings in the Senate. And, above all, I must stress and again repeat that the committee is not a prosecutorial body. It is not a judicial body. And this is difficult for those who are hellbent on making it a prosecutorial body to accept or understand, but we are not ruled by those minds.

I repeat this because it must be clearly understood what the rules are and the procedures followed as we further conduct these hearings.

And with that, I recognize Mr. Leach.

Mr. LEACH. Thank you, Mr. Chairman. Mr. Chairman, I have a rather lengthy statement with a document that I would like unanimous consent to insert in the record.

The CHAIRMAN. Certainly, without objection.

Mr. LEACH. I would like to do a very brief summary as we return to this theater of the surreal, if not the absurd, with what on the House side has become unfortunately, a "shut-up" standard of comity and a "shut-down" dismissal of free inquiry—at least in the issues that matter to the public—the causes for the loss of taxpayer funds.

The limited nature of this inquiry is sandwiched between two very profound circumstances. On the one hand, it is conflicts of interest in Arkansas that led to a substantial taxpayer loss. On the other hand, we had an effort by at least one element of the RTC to delay and perhaps object to the criminal investigation unit's conclusion, that is another element of the RTC's work.

And here let me be very precise in laying before this body a circumstance that, while it may be true that the criminal referrals were not effectively blocked, it is not true that an effort to do so was not made. And the material that I am presenting with this document will show just precisely how.

I would also say, in retrospect, that the testimony of White House witnesses last week reminded me a little bit of an observation that I.F. Stone, the great liberal commentator made on the

Vietnam war. Stone referenced the body counts coming out of the Pentagon, and he said, he had no reason to suspect that they were lies or falsehoods. He did say, though, that they never presented the true picture. It would be, he suggested, like bumping into a man running out of a bank, waving a gun, and carrying a satchel full of money, and asking, what are you doing? If the man suggested that he was waiting for a car, he would be telling the truth, but not presenting a fair representation of the circumstances.

The "see no wrong, hear no wrong, do no wrong" assertions of the White House staff are premised on the notion that it is not wrong to provide insider notification to one public official of the details of a criminal investigation being commenced against him, despite the fact that official appointees and private sector friends, especially those also potentially touched by the investigation, might have reason to help him, either in stalling an investigation or frustrating a probe through evidence destruction.

We in the minority believe there is a distinction between the Presidency and the President, and that to preserve and protect the former, we must insist the latter not lay claim to privileges associated with closed, rather than open, societies.

In today's hearing, it is the minority's judgment that candor and cronyism are on trial; and we expect to lay out a case that is less than perfect from the perspective of the American people.

Finally, let me conclude by observing on process grounds, that the minority had hoped these hearings would be conducted differently. We presented a series of alternatives to the majority in that regard. A government of too little candor cannot be overseen by a legislative body with too much partisan control. The minority chafes at the scope of these hearings, at the majority's refusal to acknowledge the conflicts of interests which precipitated the investigation of Whitewater in the first place, and in a process barren of comity and commonsense capacity to pursue logical inquiry. Just as no President is entitled to insider notification of criminal proceedings, no Congress is entitled to stifle the public's right to know.

I thank the Chair, and we look forward to proceeding today.

[The prepared statement of Mr. James A. Leach can be found in the appendix.]

Mr. NEAL. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. Yes, sir. State it.

Mr. NEAL. It is my understanding that we are conducting these hearings in keeping with the resolution that passed the House of Representatives, I might say with only 15 votes against it.

The CHAIRMAN. That's correct.

Mr. NEAL. And didn't that resolution say that we could not at this time engage—start getting into matters that Mr. Fiske said would interfere with his investigation?

The CHAIRMAN. Yes, sir.

Mr. NEAL. Well, I just don't understand these assertions then that we are somehow limiting the hearings in some unusual way. Aren't we—

Mr. JOHNSON. Further parliamentary inquiry, Mr. Chairman.

Mr. NEAL. Aren't we fully implementing that resolution that passed the House of Representatives?

Mr. JOHNSON. You know we're not.

The CHAIRMAN. You are out of order, Mr. Johnson.

What is your parliamentary inquiry?

Mr. NEAL. Whether or not we are engaging in these hearings fully in accordance with the resolution that passed the House of Representatives with only 15 votes against it.

The CHAIRMAN. The answer is, of course, affirmative. I have explained that repeatedly. And that, perforce, the mandate by the House and the selection of this committee by the Speaker and the leadership to conduct under House Resolution 394 mandates that we adhere to that mandate by the House. And implement it by, as I said and repeat, bipartisan agreement of the leadership, minority and majority. So let me just answer affirmatively, and if the gentleman would—

Mr. LAZIO. Mr. Chairman, parliamentary inquiry.

Mr. MCCOLLUM. Parliamentary inquiry.

Isn't it true, Mr. Chairman, that the scope of what the House passed with respect to what we could conduct here today included the option of examining the circumstances surrounding the death of Vincent Foster and that it was a vote of this committee here, which the minority objected to, but which took place on the first day of these hearings, that further narrowed the scope beyond that which was actually in the resolution that passed the House in that regard?

The CHAIRMAN. Let me reply.

That is partially true. This is the reason—and I said this before, I asked the Speaker to fully spell out the limitation with respect to that. His letter indicated that since the special counsel had reported that he was unable to complete the Washington phase, meaning the Foster papers, that it was understood by the leadership that we would be limited only to that portion in which the record clearly showed a report had been made.

So that in observing the Speaker's request, obviously—he was interpreting the bipartisan leadership's agreement and the answer to the gentleman is actually yes and no. Even though the resolution at the time the special counsel promised to complete what he called the Washington phase of the investigation before the beginning of our first hearing which was held on July 26, he reported otherwise on July 15. Then I directed my letter to the Speaker that we would be jeopardizing, even as spelled out by the Speaker, the proceedings under grand jury investigation of the special counsel. And that never has been the intent. House Resolution 394 said subject to the ongoing special counsel investigation.

Mr. FRANK. Mr. Chairman, parliamentary inquiry.

Could we have a day for parliamentary inquiries and just listen to the witness on the other days?

Mr. LINDER. Parliamentary inquiry.

Isn't it true that the only portion that Mr. Fiske said he had not completed was the examination and removal of the files from the office of Mr. Foster after he discovered that he was dead?

The CHAIRMAN. No, sir.

Mr. LINDER. That is true.

The CHAIRMAN. The gentleman has asked a question and I have answered him negatively. If the gentleman wants to make that question—

Mr. LINDER. Further parliamentary inquiry.

You tell us then what portion of Mr. Foster's death and the events surrounding it were not completed.

The CHAIRMAN. That is not a parliamentary inquiry, and the gentleman is not recognized at this point.

We must proceed. Regular order. Regular order.

Mr. BACHUS OF ALABAMA. Parliamentary inquiry.

We have a tentative witness list for Friday which includes a panel of eight witnesses, and I would like to know when it would be proper to offer a motion to split that panel of eight into two panels of four. We have had a discussion this morning concerning the 5-minute rule.

The CHAIRMAN. In reply to that, the proper time will be at the time we convene for that hearing on Friday, not now.

Mr. BACHUS OF ALABAMA. I have another parliamentary inquiry. I am not trying in any way to delay the hearings, but I received a letter yesterday that said the morning panel would include Mr. Altman, Ms. Hanson, and Mr. Steiner and then last—early yesterday afternoon a revised letter saying that Mr. Altman would appear alone today.

The CHAIRMAN. On the first panel.

Mr. BACHUS OF ALABAMA. And then that the second panel would have four members.

The CHAIRMAN. That is correct.

Mr. BACHUS OF ALABAMA. I understand late last night or early this morning we were told that Mr. Bentsen would be here tomorrow and my inquiry is, can you give us an update on who will be here and when?

The CHAIRMAN. That is not a parliamentary inquiry, and the gentleman is not recognized for that purpose at this time. And the record will speak for itself as to what the purposes are of raising that question under the disguise of a parliamentary inquiry.

Regular order.

Mr. LAZIO. Parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. State your parliamentary inquiry.

Mr. LAZIO. My friend from Alabama has asked when it would be appropriate to make the motion to split the panels, because it is far more advantageous to make additional inquiries to the witnesses. The Senate did that. And you had responded that it would be appropriate to make that motion on Friday.

Would you please give us some direction as to whether it would be appropriate to make that motion at the very beginning of the hearings on Friday or whether it would be appropriate at some other time?

The CHAIRMAN. The gentleman and no member of this body has ever been denied a proper motion. And I think the answer to that was explained and it was implied. When we meet for Friday's hearing and we know, for sure, just what number of witnesses appear, at that point the question as to the procedure would be proper, though the Chair has stated the list of witnesses that we expect to have on Friday.

So at that time, as we convene on Friday, an early motion would be proper, I would say.

Mr. LAZIO. Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Altman—

Mr. McCANDLESS. Mr. Chairman.

The CHAIRMAN. First, let me say that we know that you appeared before the Senate until 2 a.m. this morning. So I, for one, would express my thanks to you for appearing early this morning and rendering your testimony before this committee. I know that to any outside citizen, it seems almost sadistic to do this to you, but I have great faith, despite some prior eruptions that we can proceed orderly.

I want to point out again that we are going to proceed under rule X, as has been demanded by Mr. Leach, and swear witnesses in, since this is an investigative hearing under the definition of rule X. But I have said before and I will repeat, none of the witnesses that have voluntarily appeared on our invitation, not one has had to be subpoenaed, is under any shadow of accusation, of culpability, either civil or criminal. And, therefore, there should be no inferences that because we are going through this formality of swearing in witnesses that there is an implication and there is a shadow of accusation involving either civil or criminal culpability.

And I am going to ask the witness to please rise.

Mr. KING. Parliamentary inquiry.

The CHAIRMAN. The gentleman is not recognized. We have begun—

Mr. KING. That is why I made the inquiry before you initiated it.

The CHAIRMAN. We are about to swear the witness in, and I am going to ask the gentleman to withhold his parliamentary inquiry. There can't be any possible germaneness to any parliamentary inquiry at this time, since we are in the process and the Chair has announced we are about to swear the witness in.

Mr. KING. I object to the Chair's ruling.

[Witness sworn.]

The CHAIRMAN. Thank you, sir. You may be seated.

Mr. KING. Mr. Chairman, could I renew my parliamentary inquiry. Mr. Chairman? Mr. Chairman, I was going to ask, with no reflection on Mr. Altman, how, before he has given one word of testimony, you can say there is no shadow of any civil or criminal—

Mr. FRANK. Point of order. Mr. Chairman, point of order.

That is clearly not a parliamentary inquiry. He knows it is not, and—

The CHAIRMAN. The Chair doesn't recognize the gentleman.

Mr. KING. I would like to respond to Mr. Frank.

The CHAIRMAN. The Chair is appreciative of the gentleman from Massachusetts, but it is obvious that the Chair is fully prepared to rule the gentleman out of order.

Mr. KING. You didn't give me a chance to finish. How can you rule me out of order?

You are prejudging the testimony before being given. That was my point.

Mr. Chairman, again I say, before the witnesses has given—

The CHAIRMAN. The gentleman is not recognized.

Mr. FRANK. Mr. Chairman.

The CHAIRMAN. For what purpose does the gentleman seek recognition?

Mr. FRANK. I want to renew a point of order.

The CHAIRMAN. State your point of order.

Mr. FRANK. I believe under the rules a pattern of dilatory tactics can be recognized by the Chair. If the members on the other side didn't want to have the hearing, they should have told us that a couple of weeks ago. We could have saved time. We made an effort to have Mr. Altman. He is all by himself.

They want to split some panels. The Senate tried to split Mr. Altman yesterday. They didn't succeed. Why are we seeing a dilatory pattern, which is my point of order? We're ready to listen to Mr. Altman and let people have a chance to question him. And if the minority wants not to have a hearing, but play parliamentary "can-you-top-this," why don't we do that instead?

The CHAIRMAN. What is the gentleman's point of order?

Mr. FRANK. That there is a pattern of dilatory activity on the other side, and I would ask the chairman to make the ruling that that is clearly the case. Members know much better than they are pretending to now know.

And in the alternative, dismiss the witness, and we can do this all day.

The CHAIRMAN. The gentleman is correct, but the Chair will reply that the Chair has ruled the gentleman out of order. He is clearly out of order. And I must point out to the members on both sides that if you want to show disrespect to your own selves, that is your privilege, but this Chair is not going to tolerate an obstruction of the orderly process that is under the rules.

Mr. BACHUS OF ALABAMA. Point of personal privilege.

The CHAIRMAN. The Chair will not recognize you for a personal privilege point at this time, sir. Let's proceed with the hearing.

If the minority is desirous of not proceeding under the rules, the Chair will say that then it should excuse itself and we will proceed as best we can under the rules.

Mr. BACHUS OF ALABAMA. Point of order.

The CHAIRMAN. State your point.

Mr. BACHUS OF ALABAMA. Mr. Chairman, how is it that the minority members cannot make statements in their defense when members on the majority side insult our intentions and question our motives, including the chairman—

The CHAIRMAN. The gentleman is out of order.

Mr. BACHUS OF ALABAMA. To respond to those accusations?

The CHAIRMAN. The record speaks for itself.

Mr. KING. The record does speak for itself.

The CHAIRMAN. Mr. Altman, we realize that you have given us a written prepared statement, and if it is your desire, we shall place your statement, as you gave it to us in writing, in the record after your oral testimony.

And you may proceed as you deem best.

[The prepared statement of Mr. Frank can be found in the appendix.]

TESTIMONY OF ROGER C. ALTMAN, DEPUTY SECRETARY OF THE TREASURY

Mr. ALTMAN. Thank you, Mr. Chairman.

Mr. Chairman and members of this committee, my name is Roger Altman. On January 21 1993, I was unanimously confirmed by the Senate as Deputy Secretary of the Treasury and have served in that capacity since then. That was the second time I was unanimously confirmed to serve in the Treasury; over the 4 years of the Carter administration, I served there as Assistant Secretary for Domestic Finance.

I feel privileged to have served in these capacities. Public service has always been an important part of my life, as it was for my parents. And over those years and in those positions I may have made some poor decisions or other mistakes, but my integrity has never been questioned.

Let me address first the very basic issue as to whether any effort was made by Treasury or White House staff to impede or alter in any way the criminal or civil processes of the RTC as they relate to Madison Guaranty, and I include within that question the issue of whether any information was improperly imparted to the White House.

To the best of my knowledge, there was no effort on the part of any White House or Treasury staff to impede or affect in any way the RTC investigations. Moreover, no member of the RTC or Treasury staff, to my knowledge, improperly imparted any information about Madison Guaranty to the White House. I did not do it myself and I am not aware of anyone else doing it.

Now, Mr. Chairman, three independent investigations have addressed these questions. First, we have the results of the legal investigation by the independent counsel, Mr. Fiske. All issues involved in his investigation were fully and thoroughly investigated, and we are all familiar with his conclusions.

There is also the report of the Office of Government Ethics, which Secretary Bentsen released on Sunday. This concluded that there had been no unethical activities on the part of any Treasury personnel. The Office of Government Ethics, as you know, is an independent body; it is not connected to the Clinton administration. As with Mr. Fiske, it had access to all documents and it took testimony under oath from all those involved, including the witnesses you had before this committee and will have.

There is also the report of Mr. Cutler, White House counsel, on the question of any unethical behavior by White House staff; and he concluded that there was none.

These three investigations have confirmed that the Clinton administration did not interfere in any aspect of the Madison Guaranty case. There is no evidence—I repeat, there is no evidence that either the criminal or the civil aspects were compromised, delayed, or altered in any way, simply none.

I believe that the conclusions of these three separate investigations are absolutely correct. And I ask the committee to bear in mind the larger context of my own involvement in the handling of the Madison matter by the RTC.

First, and most importantly, I never made any decisions with respect to the Madison case; I was committed, as I told the White House staff and others, to have the RTC general counsel, Ellen Kulka, make whatever determination was necessary with respect to any civil claims arising from Madison; my meeting with the

White House staff on February 2 was cleared by both Treasury general counsel and the designated Treasury Ethics Officer; I obtained two written ethics opinions stating that my recusal was not required; and I recused myself on the Madison matter on February 25 without having ever made any decision in that case.

Now, in hindsight, I believe that it would have been better to communicate in writing rather than a meeting on February 2; and second, to have recused myself right off the bat. That would have been better. If I could do it again, I would do those two things and perhaps some others. And if I had, it may have avoided the need for these hearings.

Let me say a few words, if I might, about the interaction between the Clinton administration and the RTC.

First, when Mr. Casey resigned as CEO in March 1993, the administration had only taken office 5 or 6 weeks earlier and had not yet chosen its nominee for this position. Indeed, only two U.S. Treasury officials had even been confirmed at that time, Secretary Bentsen and me.

Secretary Bentsen asked me to assume this position until a permanent CEO was nominated and confirmed. As others will attest, I neither sought nor wanted this assignment, but I accepted it because there was no one else; and during the discussions about my appointment, I want to assure you all there was never any mention by anybody about Madison Guaranty.

In June 1993, we submitted a nomination for permanent chairperson of the RTC. Our expectation was that he would be promptly confirmed and that I could leave the agency. Our nominee, Mr. Chairman, was a Republican, and an active one. He was well qualified for this position, and the administration supported his nomination throughout the congressional session. But the nomination was not taken up by the Senate, and after Congress completed its work last fall, he withdrew his name from further consideration.

Let me make an observation about this situation. The administration nominated an active Republican for the top RTC job. That is not consistent with trying to exert undue control over the agency or over one of its investigations. When I became RTC Chairman, the agency was managed on a day-to-day basis by its two senior vice presidents, Mr. Roelle and Mr. Kelly. Almost all members of the RTC senior staff reported to one or the other.

These two men were appointees of Mr. Casey who, in turn, had been appointed by President Bush. They were thoroughly professional, and we retained them throughout all of 1993 and then each left at his own initiative to rejoin the FDIC. Retaining the two senior vice presidents whom we inherited is also not consistent with trying to exert political control over the agency. That is not how you do that.

Moreover, those two individuals had no motivation to show favoritism on Madison Guaranty, and I do not believe that they did so.

During my tenure at the RTC, I was also serving as Deputy Secretary of the Treasury. In that role, I was deeply involved in policy initiatives ranging from passage of the President's economic plan last year to cochairing the United States-Japan framework negotiations. Those responsibilities permitted me limited time for RTC matters. My RTC involvement typically related to broad public is-

sues, like the long struggle last year to pass the RTC Completion Act. At no time did I ever ask to be briefed nor was I briefed on any investigation or the status or the outlook for any case. Not one time.

My role was to provide general oversight at the twice-weekly RTC senior staff meetings. Those involved 8 to 10 RTC officials, and they were the only RTC employees with whom I ever had personal contact of any kind.

Last fall, Bill Roelle or Jean Hanson, or perhaps both, advised me because of pending publicity, that the RTC was considering referring the Madison matter to the Justice Department for criminal investigation and that the referral could mention the President and First Lady in some capacity. I had never asked to be involved in Madison-related matters or any other RTC investigation. And indeed, until that time, I had known nothing about Madison except through the press. And as I said, I believed they advised me because publicity was imminent.

I was also advised that such referral decisions are typically made at the regional office level. I responded by saying that this referral decision should be made in exactly the same fashion as in any other case. And if that meant the regional office level, then that is where the decision would be made.

There were no further conversations with me on this subject. I ultimately learned through the press that the case indeed had been referred to the Justice Department.

I do not believe that I suggested that the White House be informed on any facts relating to this referral. But if Ms. Hanson did advise the White House of an impending press leak on it, I don't see anything improper in that. Mr. Roelle has testified that he advised me of a possible criminal referral as early as March 1993. I respect him, but I do not recall it.

There also have been questions about press articles on Madison which I may have faxed to Mr. Nussbaum. He has said that he doesn't have any recollection of receiving them. I don't recall sending them either, but there would be nothing wrong with sending press articles to anyone. And there is not a shred of evidence that I conveyed sensitive information then or at any other time, as the Office of Government Ethics has confirmed.

During our meeting at the White House on February 2, we conveyed no information on the facts, the merits, or outlook for the case or the statute of limitations decision. That indeed would have been impossible because I had no information on those matters. I never had such information on Madison or any other case and I do not have it sitting here today.

The only information we provided which related to the case involved the description of the generic and procedural alternatives which faced the RTC on any expiring statute of limitations decision, and, indeed, faced it on Madison. All of that information, Mr. Chairman, was in the public domain. It had previously been provided to Representatives of the Congress upon their request. And it was in the hands of the media. The *Washington Times*, for example, had already printed a summary of those procedural alternatives.

And during the month of December and January before our February 2 meeting, there were at least seven meetings or conversations between RTC officials and House and Senate staff, all requested by the latter. Three of these involved Senator D'Amato's staff. All of these centered around the statute of limitations issues and the supplying of documents to the Congress relating to Madison.

And from December 1993 through February 1994, a series of congressional inquiries regarding the pursuit of civil claims arising from the Madison failure came directly to me. They included a letter on January 11 from 41 Republican Senators and a letter on January 25 from Senator D'Amato and a letter from Congressman Leach. These urged, to use Senator D'Amato's words, "Take action to voluntarily seek agreements from potential parties to preinitiated legal action. I can see no reason for further delay on your part. Please provide me with your conclusion immediately," unquote.

Those congressional inquiries directed to me, of course, required a response. Prior to receiving them, I was not familiar with the statute of limitations issues. I am not a lawyer, for example, and I had never heard previously of a tolling agreement.

To assist in preparing responses to congressional inquiries, Ellen Kulka, RTC general counsel, briefed me on these issues. I learned that the RTC had to make a decision by February 28. The alternatives were: One, seeking a tolling agreement with the parties against whom a claim might be brought; or, two, failing that, filing a claim in court; or three, concluding that no basis existed for pursuing a claim.

This information, together with the facts relating to the criminal referral, was the sum total of information relating to Madison which was known to me. The sum total.

My responses to Members of Congress were very direct. We pledged an impartial process. A thorough review and, quote, "If such claims do exist, the RTC will vigorously pursue all appropriate remedies using standard procedures in such cases, including seeking agreements to toll the statute of limitations," unquote.

With the volume of congressional and press inquiries rising, it seemed to me that first, the White House should have the same information which was being provided to congressional staff and the press; and second, that it was appropriate it advise the White House of events which could affect its function. Those were my only motivations.

On February 2, Jean Hanson and I went to the White House. She attended because, as Treasury's senior lawyer, she had been helping me on various RTC legal matters and the subject matter was inherently legal. She saw nothing wrong with providing this information to the White House.

I later learned that she also had the good judgment to check the ethical issues with Dennis Foreman, Treasury's chief ethics officer, who also saw nothing improper. Mr. Foreman, I might say, is a career appointee who preceded the Clinton administration.

In other words, Mr. Chairman, Treasury's general counsel and its senior ethics officer both approved this meeting.

The meeting lasted about 20 minutes. Initially, Mrs. Hanson and I described the generic procedures which the RTC used in this or in any other case facing an expiring statute of limitation. We recited the three alternatives, following generally the talking points which she had prepared, and this committee, of course, has a copy of those. This was the total information provided which related to the case.

We provided no information on the status or the outlook for the case, and that would have been impossible because we possessed none. The Office of Government Ethics, which took testimony under oath from all the participants in that meeting, said in its report, that, quote, "Nothing suggests that this part of the meeting involved a disclosure of nonpublic information," unquote.

Toward the end of the February 2 meeting, I also raised the question of recusal. And let me address that.

The issue of recusal is a false one. Whether I recused myself or not would have had no impact on the case. No impact whatsoever. The facts are that I began thinking about recusal around February 1 and then on February 25, I did recuse myself. No matter came to me for decision on any case, including Madison, in that time or at any other time.

Moreover, prior to recusing myself, I was de facto recused because decisions on cases never came to me at any time during my RTC tenure and I had specifically reaffirmed with the RTC general counsel before the February 2 meeting that she would be making all decisions relating to Madison, not me. And I told her that more than once, and there were others present when I did so.

On February 2, when I informed the White House that I was thinking about recusal, I told them that it was irrelevant because the RTC general counsel would be making all decisions on Madison, not me. And the Office of Government Ethics report confirms that de facto recusal. It states that, "Recusal is just another word for nonparticipation." And I had already chosen nonparticipation.

Nine days after the February 2 meeting, Congress passed a 2-year extension of the statute of limitations on Madison. That made recusal entirely moot 9 days later. Because my term as RTC Chairman was to expire and did expire on March 30. With such additional time through the extended statute of limitations, it was certain that the RTC would not be making any Madison decisions by my March 30 termination date.

Mr. Chairman, in retrospect, I probably should have recused myself right off the bat. If I could do it again, I would—off the bat—and some of this controversy would have been avoided. But before February 2, I had been advised that there was no legal or ethical requirement to recuse myself. I later received two written opinions from ethics officers to that effect.

Moreover, it isn't clear whether recusing oneself in the absence of such requirements is entirely appropriate either. And the Office of Government Ethics report questions whether I made the right decision to recuse, or instead whether I had a duty to serve. And I don't think that taking 3 weeks to make such a complex decision is all that surprising.

But again, the important point is that I recused myself without ever having participated in any decisions on Madison.

Following the meeting on February 2, there were several incidental contacts, all of which involved only the issue of my recusal or the conclusion of my term at the RTC. These included a brief telephone call to Mr. McLarty a few days after the February 2 meeting to the effect that I was still considering the issue of recusal. Around the same time I had a brief discussion with Harold Ickes to tell him essentially the same thing.

Those brief conversations on recusal could not under any circumstances have had a bearing on this case. I already had removed myself from any possible role on the case.

Finally, I also had a brief discussion with Mr. Ickes the night before my Senate testimony. I told him that I wanted to announce during my testimony that I was stepping down as the CEO of the RTC, as I then did announce the next day.

Around the same time, I literally ran into Mr. Nussbaum in the corridor of the White House, and he told me that the administration would soon be submitting its nominee for the permanent RTC head. Again, neither of those contacts had anything to do with the RTC investigation of Madison.

In closing, Mr. Chairman, I would like to reiterate the key facts. Three separate investigations have concluded that no legal or ethical violations occurred. No legal or ethical violations occurred. Three separate investigations. And no one interfered in any way with the Madison case nor improperly imparted information on it.

I hope that these points and the answers I will now try to provide to your questions will satisfy this committee and that my conduct was proper.

Thank you.

[The prepared statement of Mr. Altman can be found in the appendix.]

The CHAIRMAN. Thank you, sir.

The conditions contend that it was improper for the Treasury Department and White House officials to discuss and pass along information contained in a so-called criminal referral, and I will refer the members to the definition of that by our first witness last Tuesday.

My question is, first, is there any evidence that anyone at the White House or the Treasury Department ever had an actual copy of the criminal referral?

Mr. ALTMAN. I am not aware of any, Mr. Chairman.

The CHAIRMAN. The second question, did anyone at the Treasury Department try to use their position to attempt to obtain a copy of the criminal referral?

Mr. ALTMAN. I am not aware of any.

The CHAIRMAN. It seems that a lot of criticism has been centering around your role in the contacts issue.

Mr. ALTMAN. Yes, sir.

The CHAIRMAN. Some of these have been, in my opinion, cheap shots directed at your stewardship of the RTC. And I believe that lost sight of is the efforts that in cooperation with ourselves in the Congress, you brought about the reforms at RTC that have long been deferred.

You inherited an RTC that had been decimated by the prior administration, and under your stewardship, there were many posi-

tive reforms at the RTC. I wonder if you can give the committee an overview of the positive changes you have made at the RTC.

Mr. ALTMAN. Well, when Secretary Bentsen testified before the Congress, including this committee, in March 1993, he outlined a program of 10 management reforms which he pledged that we would take. When I testified before the Senate on February 24 of this year, most of the testimony that day centered around a report on those management reforms.

I might digress to say that 10 minutes or less of the testimony that day had to do with Madison or my testimony.

First, Mr. Chairman, we had to fill some of the vacant top jobs. When we came here, there was not a chief financial officer, there was not a permanent general counsel, there was not a deputy CEO. And a number of other senior jobs were unfilled. So we set about to fill them, and we did.

Second, the contracting side of the RTC, which is such a big activity, was disorganized. And we changed it quite a bit. We doubled the staff, for example, in contracting oversight, and we—

Mr. LEACH. Parliamentary inquiry, Mr. Chairman. I am not sure how the answers to this question relate to the subject of the hearing. Is it relevant?

The CHAIRMAN. I believe the gentleman was not present when I directed the question. It is relevant since the accusations that have been made and the fact that we are looking into the stewardship of Mr. Altman is a matter of point. So I hope that satisfies the gentleman's inquiry.

Mr. LEACH. Thank you, Mr. Chairman. Then I would be delighted to add extra time.

The CHAIRMAN. Sorry, Mr. Altman.

Mr. ALTMAN. We substantially increased the staffing in the PLS section, and that is the investigative section. I believe, in general, we doubled the number of attorneys in that section.

We reformed the system of audit followup, which had been lax or not up to par. And we put in place a system of audit followup which brought us current.

And we made five or six other management reforms, Mr. Chairman, along the lines of those Secretary Bentsen pledged we would, which I think is fair to say brought the agency to a point where it was better than when we found it. We didn't make it perfect. I don't know if we get an A or B, but we did leave it—I think we left it in better shape than we found it.

The CHAIRMAN. My time is up, but I will submit in writing some questions to follow up on this, and also to show your responsibility in your dual capacity that you accepted during that period of time, pending an appointment of a head.

Mr. Leach.

Mr. LEACH. Thank you, Mr. Chairman.

Mr. Chairman, the minority has a line of inquiry which we would like to pursue with designated members. So at this point I would like to yield to the distinguished gentleman from Florida, Mr. McCollum.

Mr. MCCOLLUM. I thank the gentleman for yielding.

Mr. Altman, you have been through a lot in the last few hours. I think of it that way because I watched some of the proceedings

in the other body and I think what has gone on to the extent that anyone has tried to follow it has been confusing, although many points have been made over and over again.

I can't help but put another perspective in opening the line of questioning that I want to ask you about, that this body, as opposed to the other body's process, has been subject to considerable frustration and controversy from the minority perspective, and you have heard some of that this morning. We have not always felt that we were being given the fairest of shakes about getting information from the White House as well as the process here in this hearing. What we do know, though, is that we are looking at a very tiny part of the overall Whitewater matter.

We are not allowed because of the process that was adopted by the House floor in order to have any hearing, which we had to agree to in order to get any hearing in 1994, not to get into the question of what happened in the White House in Vince Foster's office the night after his death or to explore the questions directly related to the investigation in Kansas City or the relationships with you and Treasury and RTC in regard to that, or for that matter, into the \$60 million loss to the taxpayers of Madison Guaranty in Arkansas and its connection potentially with the President and the First Lady. But what we have been able to do is try to ask questions about the propriety of the conduct of White House personnel and the contacts that you and others at Treasury and at RTC had with them in connection with the matter at hand.

And what I have discerned from all of this is that yes, I suspect that, at least at this point, there is no evidence of criminal behavior. Perhaps that is debatable whether it was a technical violation of any standard of ethics that has been promulgated, but there is a great sense on the part of many of us that there is something more to that than many White House folks have ever wanted us to see and that there was some considerable improprieties that went on with regard to the criminal referral issue.

Before I get into that, though—and I believe the way we will work this, we will be able to do that—I want to point out one of the problems, that we faced, to you. And back a few days ago we had a document that was given to us as part of the request we had, a memorandum supposedly from Mr. Ickes, who is the Deputy Chief of Staff at the White House to the First Lady, dated March 1, 1994, on the Resolution Trust Corporation.

This was the title of the memorandum and there was one short paragraph on it, and I have a copy of what we were given. It was 25 pages long, and many of us have pointed out over time it was completely whited out, or redacted, as is the technical term, except for one small paragraph. Republicans had consistently asked for, and over time Mr. Cutler said he provided everything relevant, but the committee didn't ask for it, and I suspect maybe so, but we certainly did.

After Mr. Ickes testified and has been over here to the House, the complete 25 pages was finally provided to us. I use this as an illustration and also as a basis to ask questions. It was provided Friday night to the Senate, not to the House actually. It certainly was not exactly in the spirit of cooperation that we in the House

got this in a timely fashion and there is material in it that appears to me to be relevant.

I would like to have this handed down to you so that—the staff can take it down to Mr. Altman, please—so that I can ask you a couple of questions about this particular 25-page memorandum.

What it purports to be is a memorandum that is mostly directed to Mrs. Clinton to give her copies of what Mr. Eggleston indeed has prepared for Mr. Ickes on the Resolution Trust Corporation, on the Rose law firm connection with Whitewater, and most specifically with your recusal, which had occurred some time earlier.

I would like to ask you, have you ever seen this memorandum before in any form, either the cover memorandum to Mrs. Clinton or the Eggleston, who is the deputy counsel of the White House, memorandum to Mr. Ickes.

Mr. ALTMAN. No, sir, I learned about this about 2, 1 or 2 in the morning last night.

Mr. MCCOLLUM. Had anyone discussed anything about a briefing of Mrs. Clinton about these matters with you prior to when you actually saw the memo or not?

Mr. ALTMAN. No, sir.

Mr. MCCOLLUM. Has anyone ever discussed with you the question involved in the issue of your recusal that is put there as to advising the First Lady or advising anybody higher up about the fact that Jack Ryan, after your recusal, which I think had just occurred, or you stated you were going to recuse yourself in the hearings before the Senate, that Jack Ryan would be the person who would make the decisions? That is what Mr. Eggleston is stating in there from there on forward, along with Mrs. Kulka.

Did anybody ever advise you that they intended to say something to anyone about this, from the White House or anyone in your Department?

Mr. ALTMAN. First, I heard about this late last evening. This is the first time I have seen it. I don't recall ever being advised by anyone about conversations with the First Lady on these subjects.

The CHAIRMAN. Time of the gentleman has expired.

Mr. MCCOLLUM. Thank you.

The CHAIRMAN. Mr. Neal.

Mr. NEAL. Thank you, Mr. Chairman.

You know, I, like a lot of people, watched much of what went on in the Senate yesterday and the very tough, seemed to me often vicious, questioning that Mr. Altman was subjected to, and I want to take a moment to just thank him for his many years of public service.

You know, I know for a fact that Mr. Altman is a very successful businessman, and that he was willing to take time away from business, making a whole lot more money than he certainly could make here, to devote much of his life to public service. And I am grateful for that. I think, frankly, all of us should be grateful for that, and I think even though I absolutely am convinced it is our duty to look into anything that comes our way, where there are any kinds of questions about the propriety of our government, any aspect, we should do it. But I am also convinced that we can do that in a respectful way and not lose sight of the fact that Mr. Altman has devoted many years of distinguished public service.

Now, I also want to take just a moment——

Mr. ALTMAN. Thank you, Mr. Neal.

Mr. NEAL. To put this—one other thing, before I forget it, by the way. Heading up the RTC must be one of the all-time great thankless tasks. As I understand it, were you not asked to do that essentially because you were the only one with enough rank, essentially, that had been confirmed by the Senate and the law required that we have someone who had been confirmed by the Senate. Is that roughly correct?

Mr. ALTMAN. I believe the Vacancy Act under which I was initially appointed requires an appointee who has been confirmed by the Senate. I believe that. I have not actually read it.

Mr. NEAL. Anyway, that is not a very important point. But there again, I want to thank you for taking on that job, too.

Now, yesterday the Senate hearing focused on the question of your recusal. You touched on that in your statement today about the timing of the recusal and whether it was proper or not. Interesting, I can't say that it is terribly significant, but, anyway, the Senators spent a lot of time on that, others may spend a lot of time on that. The other question that was the main subject of their hearing yesterday had to do with the propriety of the contacts between the Treasury and the White House.

Those are interesting questions. You said that, looking back on all of this, that you might have done something a little bit differently. Honestly, myself, I cannot see any of this is terribly serious but let us see if we cannot learn something from it.

Given the difficulties that you had in wearing both the Treasury and the RTC hats, should RTC be made more independent of the administration? Do you have any particular recommendations on that?

Mr. ALTMAN. I think, in retrospect, it would be better if the type of dual role which I had was not permitted. I am not quite sure of the right legislative way to deal with that, but if there were some type of wall which did not put people in a position of carrying two roles at least at that time.

Mr. NEAL. You know, there was no, as you pointed out in your testimony, there have been three major investigations now, all of which have found there have been no ethical improprieties. No legal—no ethical improprieties. But, since this question has been raised, should we change law, or change ethics rules to prohibit the ability of anyone to inform the White House or the President of any possible criminal charges so that they might respond to press inquiries?

Now that you have heard of complaints about all this, is this a serious matter? Should we change the ethical rules?

Mr. ALTMAN. Mr. Neal, I am not an ethics expert. I have found myself reading through ethical codes lately. But they seem to me to be pretty strict. I am not an expert. And I think they represent a rather high bar that one has to be sure one is adhering to. I think that the report of the Office of Government Ethics, which as you know is an independent body, to the effect that no ethical violations have occurred speaks to strict standards of conduct. I think other people would have to speak to whether those ethical codes

are just right or they are not. I am just not an ethics expert but I consider them to be pretty strict.

Mr. NEAL. Thank you. My time has expired.

The CHAIRMAN. Mr. McCollum.

Mr. MCCOLLUM. Thank you very much, Mr. Chairman.

I had mentioned to you in the first round of my questioning, that had been yielded to me by Mr. Leach, about this 25-page memo. And you had said, Mr. Altman, you had not seen it before. You were informed of it, you saw it late last night, but you had not seen it before that. But I do have some questions relating to what this indicates to me.

The memorandum, as you can see having glanced at it last night and again this morning, without going into detail, is essentially a compilation of an analysis by Mr. Eggleston to Mr. Ickes with regard to the Whitewater, FDIC, Rose law firm issues. That is what it says it is, anyway, and it includes documents from the FDIC and the RTC which look like in-house memoranda to me.

In any event, it gives a detailed explanation to the First Lady about what was going on with regard to the Rose law firm, with regard to your recusal, and with regard to a number of other matters related to the subject we are talking about here today.

I think that has bearing, if not on your knowledge of it itself, in the relevant way that this was a couple months after your diary entries of January 4, 1994, which had been the subject of some discussions. And I want to go over those because they relate to Mrs. Clinton's knowledge and the Clinton's knowledge generally on the matter of this whole issue.

You said, according to what the diary entry reads here, and I am quoting from what has been given to us, and I know you have seen these and I would be glad to furnish them to you again if you wish to look at them—and if I am incorrect in any way, please tell me.

Mr. BARRETT. Mr. Chairman. Mr. Chairman, parliamentary inquiry. Would it be possible for us to get copies of the memorandum he has?

Mr. MCCOLLUM. I would love to have it introduced in the record. We have it here and we would be glad to make sure those copies are introduced, Mr. Chairman. I would like to have it introduced. Ask unanimous consent it be introduced in the record.

The CHAIRMAN. This document had been handed out yesterday to the members who attended the briefing, but I guess you have extra copies.

[The information referred to can be found in the appendix.]

Mr. MCCOLLUM. Mr. Altman, your diary entry says on January 4, 1994, on Whitewater, Maggie—I presume that is Maggie Williams—told me that HRC—I presume that is Mrs. Clinton—was paralyzed by it. If we do not solve this within the next 2 days, you don't have to worry about her schedule on health care.

Did you enter that in your diary? Is that an accurate reflection of something that Mrs. Clinton's Chief of Staff Maggie Williams said to you?

Mr. ALTMAN. I did enter it into that scrapbook. Those were just the thoughts that passed through my mind based on that aside that occurred during the course of another meeting, I think on

health care. I don't know whether that's precisely what she said or not. She may not. That is what my impression was.

Mr. MCCOLLUM. When you said your impression was that Maggie Williams said that Mrs. Clinton was paralyzed by it, what was it?

Mr. ALTMAN. Well, first of all, Mr. McCollum, I think the salient point is that this is no different than Mrs. Clinton herself has said in her own press conference. She said she was upset by this and that is all that this means. She herself had said it.

Mr. MCCOLLUM. I want to know what it meant to you. When you put it down, you said that it was supposedly paralyzing her, according to Maggie Williams. I want to know what that meant not to Mrs. Clinton but what that meant to you?

Mr. ALTMAN. This is, apparently, January 11; it is now August 3.

Mr. MCCOLLUM. It was concerning Whitewater and the RTC matters, was it not?

Mr. ALTMAN. No, if I had to make a guess, I would say it would be the press and all the press—

Mr. MCCOLLUM. Concerning Whitewater and the RTC matters, but it had some relationship to Whitewater and RTC, did it not?

Mr. ALTMAN. I don't think it had anything to do with the RTC. I think it was the whole press affair which has come to be known as Whitewater. Let us keep in mind, Mr. McCollum—what is Whitewater? Whitewater is a land deal in Arkansas. I don't know anything about that. I have no idea what was involved.

Mr. MCCOLLUM. It had to do with the Madison Guaranty and Whitewater connection and the Clinton's connection with Madison Guaranty and the losses that were there, the investigation that was being conducted by or being asked to be conducted by RTC of the FBI and the Justice Department. That is what we are talking about.

We can't get into all of that here, but that is the broad subject matter, is it not? And wasn't that what the whole conversation with Maggie Williams was about? Isn't that what she meant when she said that was paralyzing Mrs. Clinton and isn't that what really shows in the memorandum I gave you, that Mrs. Clinton was very concerned about it, it seems to me, or we wouldn't have been getting memorandums from the White House Assistant Deputy Chief of Staff going up to her explaining all this as well as your diary entry. Is that not true?

Mr. ALTMAN. As I said, Mr. McCollum, this is nothing different than what Mrs. Clinton has said herself and anybody in her shoes, let me say. And she has been pretty steadfast. Anyone in her shoes would have felt the same way she did, and I am sure you would have too, Mr. McCollum.

Mr. MCCOLLUM. Well, except this says—

The CHAIRMAN. The time of the gentleman has expired. Mr. Vento.

Mr. VENTO. Thank you, Mr. Chairman.

Mr. Altman, thank you for your presence this morning. The issue is to pick up on Mr. McCollum's line of questioning, Mr. Chairman, is the same testimony that we had from Ms. Williams. Ms. Williams, in fact, said she came to Washington to work on health care

and other issues of concern and she was obviously in a position of responsibility with regard to the First Lady concerning these matters. So I think the issue here is understood that this matter was interfering with their ability to deal with other issues.

Ms. Williams expressed that frustration here last week in testimony. I think, frankly, Mr. Altman, she was upset and angry with the statements in your diary. Did you get that impression from Ms. Williams?

Mr. ALTMAN. I sure did from reading the press accounts of her testimony. I actually did not watch it. I don't blame her.

Mr. VENTO. More importantly, I think you apparently attempted to convey to her information that relayed your impressions. I don't know what was in that envelope.

Mr. Chairman, could I ask Mr. Altman, can you relate to us, did the envelope contain an explanation of the basis for your impressions in the reports that she had suggested were contrary to her own impressions? Do you understand my line of questioning?

Mr. ALTMAN. I am not sure.

Mr. VENTO. Well, you had handed her an envelope, apparently a day after, where there was a discrepancy or a difference between your opinions and her opinions concerning this particular matter. And she reportedly put this in the circular file.

Mr. ALTMAN. Well, I read that, too. I think what you are asking me about is the following: I don't think anybody in my shoes could possibly feel good about having scrapbook entries like this which were obviously entirely private out in the public the way they have been. I certainly don't feel good about it. I regret it. But when I learned they would be supplied to the Congress under the terms of the document request, I went to see Ms. Williams and I apologized to her. I went over to see her and I told her that this was being provided to the Congress and that I was sorry about it and I explained to her what was in it. And she wasn't happy, nor would I have been in her shoes. And I don't blame her.

Mr. VENTO. Well, I think the event related to questioning that occurred with regard to the special prosecutor or the government, or the Office of Government Ethics with regard and that is what precipitated her response. Obviously, I think it was appropriate, but she was not happy. I don't think there is any question but that the administration or the people in the White House wanted to work on what they came here to work on, not the issue at hand.

Now, Mr. Altman, one of the questions is a question of whether it is a bad memory on your part or bad faith. Frankly, we play at this game of asking questions all the time here and getting not complete answers, but sometimes it is with regard to the disjointed questions we ask, sometimes it is with regard to the witness not hearing or not taking the time. We are under limits it seems all the time. So I don't know how to respond to that. I guess it is a matter of individual judgment on the part of members whether or not looking at the circumstance and so forth surrounding it.

These committees end up being the best of Congress and the worst of Congress depending on whether we have a goal, whether it is political, or something else. But one question comes through to me and that is the recusal issue. In these instances where we are talking about within Treasury and within the White House,

were these questions of recusal really, were they initiated by you in seeking the advice of others, or were others giving you, others trying to give you advice that you did not ask for?

In other words, who initiated these particular questions of recusal? Were they questions that you initiated or were they people trying to superimpose something on you?

Mr. ALTMAN. Let me go back for one moment, Mr. Vento, to the point you made earlier. I have had the privilege of testifying before Congress many times, both in my Carter years and since I have been here this time and occasionally as a private citizen. I have always approached congressional testimony the same way because I have a great deal of respect for that and I know the role of testimony in our governmental process. I used the words last night "sacred trust." I have always testified forthrightly. I did not come before the Congress and do anything other than testify forthrightly.

Now, people's recollections can differ. If I started asking you a bunch of questions about some brief conversations you had 5 or 6 months ago, would you remember every one of them? I don't think so. So it is pretty natural for recollections to differ about events that have happened 5 months earlier. Nothing unusual about that. That is all we are talking about here.

I will give you my favorite example, the famous February 2 meeting. Every participant has given a deposition under oath more than once. Every participant. Some think the meeting occurred in Mr. McLarty's office, some think the meeting occurred in Mr. Nussbaum's office. Are people trying to be malicious? Of course, not. It was 5 months ago, they don't remember.

Now, as to recusal, I initiated the discussion the day before the meeting. I sought the advice of Secretary Bentsen and Jean Hanson, maybe others, on that question. Because it had just recently come up in the context of the hearings and the nomination of Ricki Tigert to be Chairperson of the FDIC and the whole question of whether she had recused herself in advance was a matter of public issue, the day before I got advice.

The purpose of the meeting was to talk about the RTC procedural alternatives. I said to Mr. McLarty that that was the purpose when I called him, not recusal. When I got into the meeting I said, also, I have been advised to recuse myself, and I intend to take that advice, and I did take that advice.

Yes, I took it 3 weeks later and, yes, I probably should have executed it right then and there or the day after. I didn't say I am going to take that advice today or tomorrow; I said I am going to take it. That is not a statement that solicits their view. I am not saying, what do you think I should do. I said, I have been advised to recuse myself and I intend to take that advice. But I initiated it.

The CHAIRMAN. Time expired. Mrs. Roukema.

Mrs. ROUKEMA. I yield to Mr. McCollum.

Mr. MCCOLLUM. I thank the gentlelady for yielding.

To go back to the diary entries in January, we only discussed it briefly in which I read to you the comments about Maggie Williams saying to you something to the effect that the First Lady was paralyzed by the events surrounding whatever it was in dealing with Whitewater or RTC or whatever. But I would like to read some

more of the entries here and right immediately following that you have LMB.

I presume Secretary Bentsen went over to see George, I presume Mr. Stephanopoulos, at the White House on Whitewater yesterday to argue for lancing the boil. Maggie's strong inference was that the White House was trying to negotiate the scope of an independent counsel with Reno, I presume that is the Attorney General, and having enormous difficulty. HRC, I guess that is Mrs. Clinton, doesn't want the counsel poking into 20 years of public life in Arkansas.

Is that your recollection? I mean, those are your entries. What I am really asking—I have read them, that is what the handwriting says—would you examine them again and tell me if I am reading those correctly?

Mr. ALTMAN. Again, Mr. McCollum. Those were impressions that I apparently gathered.

Mr. MCCOLLUM. Before you answer, though, and I will be glad to let you explain it, but was that an accurate reading on my part of your entries? I don't want to misrepresent them.

Mr. ALTMAN. In other words, did you correctly read this page in front of me?

Mr. MCCOLLUM. Yes, sir.

Mr. ALTMAN. Yes, you did.

Mr. MCCOLLUM. Thank you. You are not denying you entered those.

Mr. ALTMAN. No, I certainly am not.

Mr. MCCOLLUM. All right. And if you want to explain it briefly, I would let you.

Mr. ALTMAN. Well, taking them one at a time, as I recall it, Secretary Bentsen believed that the administration or the White House ought to get on with it, get the independent counsel in place, and we provided that viewpoint to George Stephanopoulos.

He was right about it, as he usually is. I drew an inference. I drew an inference that there was some difficulty on the scope of the independent counsel.

Now, Mr. Cutler testified before this committee very clearly that he looked into that question and he explicitly addressed himself to that and said there was no such efforts, it didn't happen. He interviewed all the participants, he talked to them all, he took testimony from them all. So I drew the wrong inference.

Mr. MCCOLLUM. My point of this, Mr. Altman, doesn't have to do with a lot of the details about what went on. My main point in showing this to you and reading this is to indicate the strong interest Mrs. Clinton had in these matters and your knowledge of the fact she had a strong interest in this, and I think everybody else did, and to relate that to the criminal referral and the fact from what we see over here.

Whether it was legal, illegal, ethical, or unethical, certainly the information was passed on through Mrs. Hanson, in part through you or others, to the First Lady and the President that there was a criminal referral, which many at RTC and many scholars whom I know about think was highly wrong.

A mayor or a Governor would not have gotten that information if they were named as potential witnesses or possibly their cam-

paigns as targets. And they did get that information. And we can debate all day long whether that was right or wrong. I think it was wrong, and a lot of other people do, but the point of this is when you look at the overall picture and you come down to your recusal, you wrestled with so much, and I heard a lot of your comments yesterday about that in the other body.

You indicated to Senator Kerry last night, as I recall, that you were very, very concerned, and he asked you if your long wrestling with recusing yourself was an effort to please somebody? Why did they want to keep you there? Mr. Nussbaum, apparently, really wanted to keep you there.

I guess the real bottom line question is, why were you trying to wrestle with this so long instead of going ahead and carrying it out and just doing it when you first knew it was the right thing to do? Because you knew you were the political contact, you knew you were the friend, you knew that if you were gone that they were going to be pained by that because they were not comfortable with Mrs. Kulka and Mr. Ryan heading up there who were not appointees of the President. And you were wrestling with this in large measure because you knew of Mrs. Clinton's knowledge and interest in this as well as the President's and you wanted to please them. You didn't want to recuse yourself even though you knew you should and that is what took you so long.

Is that what Senator Kerry was driving at last night that was never answered?

Mr. ALTMAN. I think you have asked a lot of questions there. I want to try to answer at least a couple of them.

First of all, the criminal referral I learned from the press and we all know was made to the Justice Department long before these diary entries were made. The criminal referral was made 3 months earlier.

Second of all, there is nothing in this diary or scrapbook that everybody didn't know at the time about Mrs. Clinton's attitudes toward this and they were natural attitudes and she has addressed herself to it. And I think any human being under the circumstance would have had exactly the same point of view.

Now, as to recusal. The point is that I did recuse myself. I recused myself 3 weeks after the subject came up in my own mind. I said last night and I have already said today I wish I had done it as soon as it occurred to me, but I waited 3 weeks, that's all. During that period, no matter came to me for decision that had any relationship to Madison nor did any matter ever come to me for decision that had any relationship to Madison.

As I said in my statement, recusal is a false issue. Whether I remained or removed from the case, as I was, and as Ms. Kulka testified yesterday that I was, or whether I executed a formal recusal made no difference. I was to have no role and did have no role whatever so far in the RTC investigation in Madison. It is a false issue.

Mr. MCCOLLUM. Thank you, Mr. Chairman. I think my time has expired.

The CHAIRMAN. Mr. Frank.

Mr. FRANK. I want to pick up where Mr. McCollum left off. That is a central issue here, I think.

Did anything happen that interfered with this investigation? And I am pleased to hear my colleagues on the other side now say that the accusation that the White House might have interfered with the Whitewater investigation is only 1 percent of this whole operation. I might say it has been shrinking rapidly. It started out four or five and now it is down to one. But that was considered to be the gravamen of this argument that the White House had used its power to interfere. We are all told now it is minuscule and now we are in the process of discovering it is not only minuscule but it is a nonexistent 1 percent.

There are two important dates when people were accused of doing something they should not have done, September 29 and February 2. The record is clear. I think every time you guys had a meeting shortly thereafter you went out and got tough on the whole question of Madison Guaranty and Whitewater and I will begin with September 29.

After you had the heads-up presented, we were then considering what was known as the RTC Completion Act, and I know that because Mr. Altman, as the acting head of the RTC, was bothering me considerably as a committee member and cochair with Mr. Neal of the Whip Task Force to get the bill through that November. And, in fact, under his urging, we moved quickly to pass a bill that was going to extend the statute of limitations for civil offenses covering Madison Guaranty. That did not move without any problem.

For instance, we have a bank letter, October 25, Mr. Gonzalez trying hard to get the conference moving but Mr. D'Amato has a hold on the Senate conferees. He didn't like the Women and Minority-owned Business Program. So in October, Mr. Gonzalez is pushing to get a bill through that will extend the statute of limitations after the September meeting. Mr. D'Amato was holding it up. Mr. D'Amato relented, he does from time to time, and we passed the bill in November.

It is a bill where you did not originally want us to extend the statute, that should be clear, but we decided to do it.

We had a House and Senate version each of which extended the statute of limitations. We went to conference, we extended the statute of limitations specifically, not by name, but covering Madison Guaranty. We passed that at your urging over the Republicans' objection in November. The bill was signed by the President in December.

If there was some effort to slow this down, and since you are being told that the central issue regarding you, I gather, was the extension of the statute of limitations, that is the one issue that people were afraid you might have dealt with if you had not recused. In fact, you had been urging us to take action to extend that statute of limitations and to move any further decision in November and December, and a majority of Democrats did that over the objection of a majority of Republicans. However, the gentlemen from Iowa, New Jersey, and others were with us, but they were a small minority.

Then we come to the February 2 meeting. And what happens after that February 2 meeting when, once again, there is some questions raised? As I understand it, 5 days after the February 2 meeting you took some action, the RTC did, regarding Madison

Guaranty. You hired Jay Stephens. Of all the ways to frustrate an investigation, hiring Jay Stephens was undoubtedly the most Machiavellian because you went out and hired a guy who was such an opponent to the President he would have less credibility presumably than anybody else. I congratulate you on this.

But so far we did one other thing after the February 2 meeting, we extended the statute of limitations again. Every time you guys head up a meeting we extend the statute of limitations. It is kind of a reflexive thing. You had a September meeting, we extended it. And what we did in November and December was to extend to February 28.

I had that wrong at first and then I reread and understood it. It was about to expire and we revived it to February 28. Then the Appropriations bill passed, which further extended it, but—and this is a critical point—the Appropriations bill arguably has a broader degree of extension for those where the claim was still alive and the claim would not have been alive if you had not been there.

So that is the question now I want to ask, which is, other than helping us get the statute of limitations extended, including Madison Guaranty, and hiring Jay Stephens, did the RTC do anything regarding the Madison-Whitewater investigation in that period that you are aware of?

Mr. ALTMAN. If I understand the question properly, Congressman Frank.

Mr. FRANK. What were the actions of the RTC? I know we moved to extend the statute of limitations after the September 29 meeting and after the February 2 meeting. Those are the two meetings, and I think those two meetings should not have happened in some ways because nothing happened as a result of them.

Did anything happen regarding Madison Guaranty in that time period other than hiring Jay Stephens and twice extending the statute of limitations?

Mr. ALTMAN. I think hiring Ms. Kulka as general counsel was a wise move. Anybody who saw her testify knows she is decisive and she is independent minded. When I was asked on February 2 at that meeting, well, who would be in charge since you are removing yourself, I said very explicitly Ellen Kulka and I had confidence.

Mr. FRANK. Let me say I believe you did not try to fix anything. But if you had, and this is how you were trying to fix something, I would have bet on the other guy.

Mr. ALTMAN. I don't know how to take that, but——

The CHAIRMAN. Has the witness completed his statement?

Mr. ALTMAN. Yes, I have.

The CHAIRMAN. OK, fine.

Mr. Bereuter.

Mr. BEREUTER. I yield my time to the gentleman from Iowa.

Mr. LEACH. Just to very briefly correct the record, because I am sure the gentleman would not want to mislead the public, on May 4, 1993, Mr. Roger Altman wrote the chairman of the Banking Committee at the key point of consideration of the statute of limitations and urged that the statute of limitations not be extended.

So I would like unanimous consent to put the letter of Roger Altman to the chairman, Mr. Gonzalez, in the record and I would like

it very clear that in this whole discussion of the statute of limitations, as the Acting CEO of the RTC, Mr. Altman's position at that critical moment was against extension.

Mr. FRANK. Would the gentleman yield?

Mr. LEACH. Yes, I would yield.

Mr. FRANK. I thank the gentleman and I'm a little bit unhappy at the suggestion I misled anybody because I said that Mr. Altman, in fact, had opposed it, so I made clear Mr. Altman had not been in favor of it. And I voted against it and the gentleman voted for it. But a majority of Democrats voted for extending it and a majority of Republicans voted against it. But once it was clear both bills had it, and once it was clear the conference report had it, Mr. Altman worked hard to get it passed, so I take exception to the notion I was misleading anybody.

I never said Mr. Altman was in favor of extending the statute per se, but once it was clear we were going to do that as part of the bill, he insisted, I believe over your own objections, we should move to pass it before the statute expired.

Mr. LEACH. Well, I appreciate the gentleman's clarification, but I would like unanimous consent to place in the record Mr. Altman's letter to the chairman of the committee.

Mr. FRANK. If the gentleman would yield, that was not a clarification. I said in my statement Mr. Altman had not been for that as a separate issue, but he did help us get it through during the point when there might have been some question.

Mr. LEACH. I would like to yield to the gentlelady.

The CHAIRMAN. Is there objection to the gentleman's unanimous consent request?

The CHAIRMAN. Hearing none, it is so ordered.

[The letter referred to can be found in the appendix.]

Mr. LEACH. I yield to the gentlelady from New Jersey.

Mrs. ROUKEMA. I thank my colleague.

Mr. Altman, I am going to go back to some of the questions related to the fact of your changed testimony regarding what you said before the Senate committee at that hearing. And some were related—some people have related questions, some people have characterized that as totally untruthful, and, in any case, you have left large questions in our minds as to when you determined to alter your testimony and send the letters to the Senate committee.

I am interested in the fact that Mr. John Podesta informed you on March 1 that he was aware of two meetings between the White House and Treasury officials in the fall of 1993 relating to Madison Guaranty and Whitewater, and evidently, knowing that, or being informed of that by Mr. Podesta over the phone, I believe, although I don't know how he told you, whether it was over the phone or otherwise, I believe that contradicts your testimony.

Did he in fact contact you either on March 1 or 2 or thereabouts?

Mr. ALTMAN. I am sorry, Congresswoman. That is not correct. That did not contradict my testimony. That is just not correct.

Mrs. ROUKEMA. Well, let me put it this way: I will ask you then for the record, did Mr. Podesta notify you, inform you of this, and when did he do so?

Mr. ALTMAN. On February 24, Senator Bond asked me whether anyone at your agency had advised the White House of criminal re-

ferrals. My answer was, not to my knowledge. That was dead true. Dead true.

Mr. Podesta called me, you have asked about that, Mr. Podesta said what about the two brief meetings in the fall? My answer was, as he confirmed to you, I never heard of them.

My conversation in the Senate is we had extensive discussions, including my——

Mrs. ROUKEMA. Excuse me. Your answer was what? I didn't hear you.

Mr. ALTMAN. I never heard of them. He will confirm that.

Mrs. ROUKEMA. It is my understanding that Mr. Podesta said that you interrupted him and informed him, in essence, that you would rather learn about that from the Treasury staff.

Mr. ALTMAN. No. My first comment to Mr. Podesta was, I never heard of those meetings, which I never had heard of.

Mrs. ROUKEMA. Then continue. What was your——

Mr. ALTMAN. That is why—I am sorry, ma'am—that is why my testimony on that point was dead true and your characterization of it is not correct.

Mrs. ROUKEMA. In your response you called—as I understand it, in your response, you called Mr. Steiner and Ms. Hanson down to your office and had them confirm the contacts; is that not correct.

Mr. ALTMAN. That is correct.

Mrs. ROUKEMA. The contacts being the contacts with Podesta?

Mr. ALTMAN. That is correct.

The CHAIRMAN. The time of the gentlelady has expired.

Mr. Kennedy.

Mr. KENNEDY. Thank you, Mr. Chairman.

Mr. Altman, I think, in general, your work here in government service has been second to none. I think the efforts you have made in terms of getting our country's economy moving have been very, very worthwhile and significant, and I think that you have demonstrated a continued commitment, both personally that is honorable, as well as professionally that is honorable, in terms of your overall efforts, even in the last 24 hours.

The fact that you have gone through questioning until 2 or 2:30 this morning and have come back here to continue for this kind of questioning shows, I think, a certain kind of admirable steel in your own character that should be noted.

I think all of us are cognizant of the fact that the Office of Government Ethics has indicated that nothing unethical or improper, criminal or civil was done; that Mr. Fiske has also confirmed that; that Mr. Cutler has confirmed that; but they also indicate, at the same time, that while nothing unethical was done, that there was too much communication; that the job that you took on as head of the RTC, in addition to your duties at the Treasury Department, basically blurred the lines between a Federal regulatory agency and a direct employee of the Treasury Department and the obvious close relationship between the Treasury Department and the White House.

As a result of those lines being blurred, I think the whole point of these hearings, on both the House and Senate side, are bearing down on you and they are bearing down on your reputation, and, essentially, what is happening here is you are being held out as the

fall guy for these issues that have taken place that end up suggesting that someone should have been able to keep track of the delineations between Treasury and RTC.

I think that I would like to just give you an opportunity to try to straighten out for the record your notion of what, if anything, went wrong, in terms of those delineations and what you feel that we should be able to do to try to avoid those circumstances from ever happening again.

Nobody is interested in gratuitously taking out a Treasury official, certainly on this side of the aisle, and certainly I very much appreciate all the efforts that you have made for our country. But there is a question about whether or not somehow the lines got blurred so badly that inadvertent mistakes were made that ended up creating an impression that some kind of favorable treatment was being given the White House, and I think you should take this opportunity to straighten out whether that did occur and what you feel is your side of those issues.

Mr. ALTMAN. First of all, we have had three investigations. We have had an ethical investigation, and it concluded that no improper information was imparted, so I think that is a very important point.

A number have said, I have too, that there were contacts which in hindsight shouldn't have occurred. One of the primary lessons, it seems to me, is the point that I tried to make in response to Mr. Neal; namely, that wearing two hats of this type, in retrospect, is not a good idea. And had that not happened, some of the appearances that have arisen wouldn't have arisen.

So I think there should be some wall erected through legislation which would not put people in that position in the future.

In my own case, I think the February 2 meeting should not have occurred; that that information should have been conveyed in writing, not in person, and perhaps lawyer to lawyer.

As I said earlier, I should have recused myself right off the bat instead of waiting 3 weeks. And I think everybody involved, Mr. Kennedy, thinks that if we had to do this all over again, we would have done it better.

The CHAIRMAN. Thank you, sir.

Mr. KENNEDY. I can't see the clock. If the staff could just keep out of the line here, I would appreciate it.

The CHAIRMAN. The time of the gentleman has expired.

Mr. McCandless.

Mr. MCCANDLESS. Thank you, Mr. Chairman.

Mr. Altman, my purpose here is not to embarrass you or berate you at the witness table, but I have many concerns. I keep reading this information. This morning it was brought to my attention again. Every now and again you watch a disaster unfold and seem powerless to stop it, from the personal records of Mr. Steiner.

These are the things that concern myself and I am sure other colleagues relative to the overall aspect of this, which we are very limited too, I might say, in our discussions here in this committee.

I would yield at this time to the gentlelady from New Jersey, Mrs. Roukema.

Mrs. ROUKEMA. I thank my colleague.

Mr. Altman, I want to go back to that line of questioning concerning, as I understand it, the Podesta call to you. And as I understand it, you then called Mr. Steiner and Ms. Hanson went down to your office and they confirmed the contacts; is that correct? Is that your memory of things?

Mr. ALTMAN. That is essentially correct.

Mrs. ROUKEMA. Do you recall Ms. Hanson being on the line with Mr. Podesta in your office?

Mr. ALTMAN. No, I don't.

Mrs. ROUKEMA. No? Well, that is not the important issue. In any event, you testified that you specifically did not want them to go into detail about what happened at those meetings; is that correct?

Mr. ALTMAN. No.

Mrs. ROUKEMA. Did you not testify to that?

Mr. ALTMAN. No, that is not correct.

Why don't we start off by getting the facts straight about the Podesta call. Two things occurred in that call. First, he said to me what about the fall meetings or what about those meetings? I said I never heard of them. And that was true, and I think all the debate we had last evening in the Senate confirms that.

Second, he said—and I am recalling this because of his testimony, which Mr. Cutler has adopted in his chronology—he said what about the recusal matter, meaning what about the testimony of February 24 about recusal. My answer was that I thought my answer was responsive to the question. And those are the two things that happened in that call.

Now, I did say to Mr. Podesta after he told me about those meetings that I didn't want to know more about it right then. I called Ms. Hanson down and Mr. Steiner down. They confirmed the meetings. I promptly advised that very day the Senate Banking Committee that I had learned that information, which was the first time I had learned it, and I amended the record.

Mrs. ROUKEMA. Who did you confirm that to?

Mr. ALTMAN. The Senate Banking Committee.

Mrs. ROUKEMA. In the first letter?

Mr. ALTMAN. You used the term, if I can say so, "altered" my testimony. I did not alter my testimony. That is not an example of altering my testimony.

Mrs. ROUKEMA. Four alterations, in my definition, that is altering the testimony.

But Mr. Altman, what is really curious about this exchange to me, though, is why you didn't have somebody get to the bottom of what happened as soon as possible there. Certainly, your boss, Secretary Bentsen, it would have been in his interest and the interest of the whole Department for somebody to get to the bottom of it right then.

But I do understand—and correct me if I am wrong—I do understand that you called your private attorney to get advice for yourself, but I don't see any evidence that there was a full disclosure as to getting Ms. Hanson and Mr. Steiner into fully briefing everybody on this subject.

Mr. ALTMAN. I did not call my private attorney at that time.

Mrs. ROUKEMA. You did not?

Mr. ALTMAN. I did not.

Mrs. ROUKEMA. When did you call your private—it was not in that context?

Mr. ALTMAN. I first called private counsel the——

Mrs. ROUKEMA. Let me put it this way: Why didn't you call the ethics officer at the Treasury Department, Mr. Foreman, in order to have him look into the ethical concerns here?

Mr. ALTMAN. I was advised that those fall contacts involved responses to press inquiries. I believe today that that is true, and when I was advised to that effect, I communicated that to the Congress immediately. I think I did the right thing.

Mrs. ROUKEMA. But you did not advise any ethics counsel at the RTC or the Treasury to get to the bottom of it?

Mr. ALTMAN. No, I didn't.

Mrs. ROUKEMA. My time is running out, but I do want to go to another aspect of the testimony with respect to Senator Bond when he questioned you.

Regarding your knowledge of the contacts between the White House and the Treasury Department, when Mr.—all right. I will defer until later.

The CHAIRMAN. Mr. Flake.

Mr. FLAKE. Thank you very much.

Mr. Altman, first of all, I join in commending you for having been up most of the night and then coming to face another grilling of redundant questions and having to listen to many things that I am sure you have heard over and over, not only in the last few days, but over the last few weeks.

In my role as chairman of the Subcommittee on Oversight and Investigation, I have had you before the subcommittee several times. And I would like, at this time, just to ask if you might share with us information about an agency that you took over that had a myriad of problems that were existent even before you took the temporary role as head of that agency.

Would you suggest that in many of the problems that are reflective in what people have categorized as Whitewater are indeed reflective of matters that you uncovered that were part of prior administrations?

Really, Whitewater is relatively minimal in comparison to many of the historical kinds of problems of previous administrations and your role in trying to clear up many of those problems. I remember when you and Secretary Bentsen and I talked about the nine management reforms necessary to try to clean up RTC. One question is whether or not those reforms will help so that in the future we do not face this kind of problem, because it is not one that is endemic to this administration. But, I think, as we look back in history, we see it goes all the way back, interest in the thrift industry, to Truman and Eisenhower, Jimmy Carter, Reagan, Bush.

And so just give us kind of a sense of what you found, how all of that builds into where we are and what we can do to assure that we do not have this kind of problem in the future.

Mr. ALTMAN. Mr. Flake, we set about to strengthen the RTC management beginning with a 10-point reform program that we communicated to this committee and the committee of the other body in March 1993. We tried our best to get that done. I think

we did a reasonable job. So there are managerial weaknesses in the RTC. I don't think that came as a surprise, then.

I didn't find the RTC, however, to be rife with ethical problems. I didn't.

Mr. FLAKE. And I didn't mean to suggest that. I meant more managerial. I think we both agree they were primarily managerial issues.

Mr. ALTMAN. It might be useful to keep in mind that the RTC was and perhaps still is one of the largest financial organizations in the country. I think only two or three private financial organizations, banks, were larger than the RTC and the whole thing was put in place in 1989. It is the equivalent of trying to build CitiBank in New York in 4 years up to a \$40 billion, \$60 billion, \$80 billion balance sheet.

I think people did a good job. That was a Herculean task. I have no criticism of my predecessors there. They did a very good job under extraordinarily arduous circumstances, and I think the record will ultimately show that given the great difficulty they faced, that everybody faced, a good GAO job was done resolving that thrift crisis.

So I don't have any criticism of my predecessors, and the managerial weaknesses we found were absolutely natural given how much they had had to do in such a short time.

Again, imagine that you and I set out to build a \$60 billion, \$80 billion financial institution in 4 years. You just cannot do everything perfectly and we would have had a lot of debacles if we had to do everything that fast.

Mr. FLAKE. So much of the managerial problems you found basically had to do with the way, through FIRREA, we basically created an agency basically out of thin air and just some structural problems even from the very beginning of that agency?

Mr. ALTMAN. Well, I would say it was trying to do a gigantic task in a very short time, which Hercules, Zeus, and Samson together would have had a hard time doing.

Mr. FLAKE. Thank you very much.

I yield back, Mr. Chairman. I have no further questions.

The CHAIRMAN. The gentleman yields back the balance of his time.

Mr. Baker.

Mr. BAKER. Thank you, Mr. Chairman.

Mr. Altman, much attention has really been given to your recollections in this whole matter and into the accuracy of those recollections. Some surmise there is some misrepresentation, others misunderstanding, some have alleged outright lies are involved.

My questions this morning will not probe any of those issues because I think there is something far more important than the questions of recollection in a certain brief historic period of time.

Mr. ALTMAN. I would like to interrupt, though.

Mr. BAKER. I will finish. When I am finished, if the chairman will allow, you will have a chance to respond.

Mr. ALTMAN. There was an investigation.

Mr. BAKER. To the best of my ability, I will attempt to outline what I think really is the framework for these concerns.

It all starts with a small S&L in Arkansas. There is a speculative real estate development. There is an S&L loan. The S&L closes. A Governor is involved. Subsequently, a President is involved. Taxpayers are asked to pay off losses. Some \$60 million, give or take a few millions, may be lost. Then there are some interesting dates, sort of to tie all this together, and the real framework of why people are so exercised about this whole matter.

Early March 1993, Kansas City kicks to DC the politically hot "criminal referrals." On March 16, 1993, Secretary Bentsen sits where you sit this morning with the same degree of enthusiasm and asks this committee for \$45 billion to fund the cleanup of the savings and loan debacle.

In September and October 1993, the now infamous White House meetings are conducted on this very subject. November 1993, the White House and the Treasury, through extensive lobbying efforts, ask this Congress to pass the RTC funding measure and on December 17, the President signs it.

About 1 week later, which is very intriguing, the President's attorneys then negotiate the terms of a Justice Department subpoena, which, unfortunately for many, does not become public until January 5.

So here is the problem. You knew. Secretary Bentsen knew. The President knew. Frankly, anybody in the White House who wanted to know, could probably be briefed on this matter.

Mr. ALTMAN. What matter?

Mr. BAKER. About the same time the criminal referrals were still struggling along in the process.

Mr. ALTMAN. I don't know what you mean by we knew of that.

Mr. BAKER. I will explain that for you.

Mr. ALTMAN. I don't think that is a correct statement.

Mr. BAKER. OK, fine. The point is that the Congress is then being asked to spend \$45 billion more by the Secretary of the Treasury in good faith who says we really need this money. In retrospect, we didn't even need the \$18 billion the Congress made available in good conscience.

It is the audacity of going through this process, having people in the White House know of the questions of criminal referral, coming here to this Congress and asking for working people's money, \$45 billion of it, which we didn't need, at the same time we are limiting our ability to disclose what is going on. Disclosure was a great idea as long as it was in the White House. It just wasn't a good idea when it came to the committee or when it came to the Congress.

The scope of the hearings are so dramatically limited. Documents are not released. The constraints of time do not allow us to explore with you the real questions we may have, nor in fairness give you the opportunity to fully answer. Now having been up till 2 a.m. in the morning last night in the Senate, I am sure you are glad we don't have time to go into this to the full depths of our curiosity.

All I am really pointing to is if I acted in good faith, if the House Members were given the opportunity to explore the questions, really we could come to different conclusions about this matter. But given the limited amount of information, the unreasonable time constraints, no one looking at this process, looking at the events, requesting funds from this Congress and looking at the actions of

this White House, could draw any conclusion other than something is very wrong. The conclusion I reach, whether it is founded, in fact, on appropriate information or not is that this President was protected by an overly aggressive White House administration from at least political embarrassment and perhaps more.

It is regrettable, and I wish we had an opportunity to fully disclose all of the important matters that are before this committee, but, unfortunately, given the rules handed to us, we simply cannot.

Mr. ALTMAN. May I briefly respond?

The CHAIRMAN. Absolutely.

Mr. ALTMAN. Is it your point of view that the three investigations reach the wrong conclusion?

Mr. BAKER. I'm sorry, the questioning is of me?

Mr. ALTMAN. Is it your point of view that the three investigations reached the wrong conclusion?

Mr. BAKER. It is my opinion the three investigations reached no conclusion that can be substantiated with the facts given to the committee. We can go into the discussion of redacted information—

Mr. ALTMAN. So you think Mr. Fiske, independent counsel, Republican—

Mr. BAKER. The only thing made public is the issues relative to Mr. Foster's suicide. There have been no other conclusions provided to this committee to give us information to be able to make those determinations.

I would be happy to take all the information to review, if the chairman would let me have it.

The CHAIRMAN. The time of the gentleman has expired.

Ms. Waters.

Ms. WATERS. Thank you very much, Mr. Chairman.

First, I would like to thank Mr. Altman for voluntarily being here with us this morning after having stayed up past 2 a.m. in the Senate last evening. I think he comported himself very well.

Really, there are not a lot of new questions to ask. I watched on television and nothing new has come up here this morning. But I would like to try to pursue a line of questioning that will help a little bit with background.

Members of this committee should know better than most the history of RTC, and as I understand it, having come on this committee under Bush, Mr. Bush had asked for a similar amount of money to continue to run RTC, as was asked subsequently under Clinton, so the dollars that were needed to run RTC was not created under the Clinton administration, but it was a continuation.

Also, I would like for you to describe for this committee the President's attempt to appoint someone to head RTC. The history of RTC is very interesting. We had David Carey, we had David Cook, we had Mr. Casey, all under Bush.

And after Mr. Casey, there was an attempt—by the President to appoint someone. And even though it didn't come out in the Senate, what did the Senate do to try and get someone other than yourself, who was serving in a temporary role, to run RTC? Did they help at all? Did they hold hearings? What happened?

Mr. ALTMAN. We submitted a nomination. I believe it was early June 1993. And for a variety of reasons, the nomination was not

taken up by the Senate, and at the end of the congressional term last year, our nominee withdrew.

I don't have any criticism of the Senate, Congresswoman Waters. That type of thing seems to happen not infrequently, and it was too bad it happened there because I thought we had a good nominee and we tried to support him every step a way.

Ms. WATERS. I suppose—excuse me if I could interrupt you. What I am trying to get at is the fact that there was no attempt to keep you in a temporary position and not try and get someone in a permanent position. And I suppose if you are saying that the President did, in fact, attempt to appoint and the hearings did not take place that, within itself, is an indication that there was no attempt to keep you there in a temporary role; is that correct?

Mr. ALTMAN. That is correct.

Ms. WATERS. It has been suggested that contacts were going on and that there were attempts to somehow interfere with an investigation. But you have indicated that you did, in fact, on one occasion or more than one, seek advice from your ethics officer; is that true?

Mr. ALTMAN. The February 2 meeting that we had was cleared by our general counsel with the designated agency Ethics officer. That is one. And then when I was trying to decide on recusal, I sought Ethics's opinion, two of them—one, the RTC Ethics officer and one from the Treasury Ethics Office—on the necessity of that.

Ms. WATERS. Let me just close by asking you, given what you have tried to do with reforms with RTC, do you have any suggestions to this committee or to Congress about what could be done to avoid the kind of misconceptions about ordinary daily contacts that happen between persons who are working together?

Mr. ALTMAN. Well, as I tried to say in response to Mr. Neal and Mr. Frank, in retrospect, the notion of wearing two hats, each one being an agency that is independent of the other, I think is not wise and that probably should not happen in the future; and there should be perhaps some legislative change which establishes the wall and permits under the Vacancies Act or some other act, an individual to be appointed without it having to be someone who is already in another job.

Ms. WATERS. But isn't the Treasury Secretary the head of the Oversight Board of RTC?

Mr. ALTMAN. Yes, but the Oversight Board has nothing to do with the operations of the agency. It is just, in effect, in an oversight capacity.

The CHAIRMAN. The time of the gentlelady has expired.

Mr. Nussle.

Mr. NUSSLE. Thank you. I would yield my time to Mrs. Roukema.

Mrs. ROUKEMA. I am sorry for the interruptions, but that is the procedure that the chairman has set up here.

The CHAIRMAN. Will the gentlelady yield? The gentlelady should know better than to accuse me of being the originator of the 5-minute rule. We're operating under the Rules of the House, not the ones I concocted. I wish I could take credit for the 5-minute rule.

Mrs. ROUKEMA. I withdraw the statement, Mr. Chairman.

The CHAIRMAN. You will have the time.

Mrs. ROUKEMA. Will I? Thank you, Mr. Chairman.

Mr. Altman, let's go back to the questions regarding the Podesta, Steiner, and Hanson—and I have got to tell you, just strains credulity for intelligent people like yourself, and I mean this sincerely—youself, Ms. Hanson, Mr. Steiner, and maybe even, for all I know, Secretary Bentsen.

Are you telling us that we must believe that you prepared for testimony before the Senate and it wasn't until after you got the phone call from Mr. Podesta that you realized that Ms. Hanson and Mr. Steiner and others had not properly briefed you and that, in the light of that, you never conducted an inquiry or got to the bottom of it, if only to protect the integrity of the Secretary of the Treasury?

I just don't understand that. I don't—and then you tell me that the subsequent letters that you wrote clarifying, if you will, is not an effort to correct the record.

Mr. ALTMAN. No, no, I didn't say that. Of course, it was an effort to correct the record.

I said it didn't contradict my testimony or alter my testimony. We had a long discussion last evening on the precise subject matter of the fall meetings.

Mrs. ROUKEMA. Don't blame us on this side of the aisle if we say that lacks credulity what you have outlined here.

Let me give you an opportunity to respond to something since I was the one who prompted an exchange with Mr. Cutler last Tuesday in the wake of his nationwide television comment that it will be up to Mr. Altman to reestablish his credibility.

And at that time, I questioned Mr. Cutler and it was the same day that there was a disclosure regarding what you did or did not do in intervening in the case of Navy Secretary Dalton. And I have two questions for you. Do you feel that you have made every effort to reestablish your credibility—I mean, credibility here; and in light of the fact that you have now testified that you deferred too long on the recusal question, are you now—what is your current thinking on the question of resignation in an effort to reestablish credibility?

Mr. ALTMAN. I do not intend to do that.

Mrs. ROUKEMA. Will you answer the first question as to how you have attempted to reestablish credibility?

Mr. ALTMAN. Well, I am trying to do that right here with this committee.

I have had a—

Mrs. ROUKEMA. I will ask the question again. Why did you not make any attempt to get to the bottom of things in the face of this revelation to you that you were not properly informed or briefed—honestly briefed in your testimony before the Senate committee?

Mr. ALTMAN. Let me come back to your question about credibility.

Mrs. ROUKEMA. Yes.

Mr. ALTMAN. I have had the privilege of public service, both at the Federal and at the local level, my service in the Carter administration and my service so far in this administration; and I have had the opportunity to testify—and I think it is a privilege to testify—many times in those capacities as well as occasionally in a private capacity.

I have always tried, and I think pretty successfully, to testify forthrightly. And I think those Members of Congress who've seen that testimony, or experienced it, I hope would know that it has always been provided in the most forthright manner. And on February 24, I came to that hearing with the same attitude that I have always come to testimony, which was to do the best you can, to answer the questions.

Mrs. ROUKEMA. You are saying that you were not properly briefed by the staff at Treasury to disclose fully and with substantiation what you—what had been the contacts between Treasury and the White House?

Mr. ALTMAN. Ms. Hanson herself, and she will be here this afternoon, I guess, has said under oath that she herself at the time of the February 24 testimony didn't recall the fall meetings. That is what she has said. I think it's getting—I hope it is getting—

Mrs. ROUKEMA. Again, it strains credulity when we talk about professional people, lawyers, and so forth, who are supposed to know the law, changing their story or glossing over it and claiming they didn't know, when a few days later, they did know. On the record, they knew.

Mr. ALTMAN. You will have the opportunity this afternoon to question Ms. Hanson. I saw her testimony the other day before the other body. I am just going to say that, in my own case, when I was asked about the fall meetings—I am sorry, when I was asked about previous contacts by Senator Bond, I gave a completely truthful response; and I know it was before the other body, but we did have a long discussion on this last evening, and I believe that I put to rest—coming to your point of credibility, put to rest questions about whether I answered that properly.

Mrs. ROUKEMA. Thank you, Mr. Chairman.

The CHAIRMAN. Mr. LaRocco.

Mr. LAROCOCO. Thank you, Mr. Chairman. I have to say that during some of the questioning here I am reminded of the movie "Casablanca," where the constable walked in and said he was shocked that there was gambling going on in Rick's Cafe. Some members of the minority are shocked to hear there was politics going on in the White House.

There has been a lot of criticism of the 5-minute rule. If you will excuse me for a moment I have checked the history of some high profile hearings in this committee. I am reminded that back in October 1989 in the Lincoln Savings and Loan Association hearings—there were several hearings—October 17, 1989, and October 26, 1989, August 31, November 7, November 14, November 21, March 6; under the 5-minute rule.

The hearings on Silverado Savings and Loan Association May 23, June 19, 1990, Mr. Chairman, were under the 5-minute rule. The Banca Nazionale del Lavoro hearings, October 17, April 9, May 21, May 29, 1992, were under the 5-minute rule. In the Bank of Credit and Commerce, BCCI investigation, September 11, September 13, September 27, were under the 5-minute rule. All with regular order; all conducted under the rules of the House and this committee.

Mr. Altman, I would think that maybe you got 4 hours of sleep last night, 5 hours, for the record?

Mr. ALTMAN. Well, we finished at 2:15 and I got home at 3:15, and here I am.

Mr. LAROCO. And I am not sure how many of us could do that. I tuned out at midnight last night, I must confess.

You said in the concluding parts of your statement that there were three separate investigations. Could you, for the record, tell me what those three were, and what your involvement was in those three separate investigations?

Mr. ALTMAN. Of course, I had no involvement other than to testify, of course; and I testified before each of the investigating authorities.

Mr. LAROCO. They were the Office of Government Ethics—was that one?

Mr. ALTMAN. The Office of Government Ethics through its representatives in the Treasury inspector general's office; second, Mr. Fiske's inquiry; and third, Mr. Cutler's inquiry.

Mr. LAROCO. And were you under oath in any of those?

Mr. ALTMAN. I was under oath in the first two; I can't recall if I was in the third.

Mr. LAROCO. And the conclusions of all three?

Mr. ALTMAN. Mr. Fiske spoke to the legal issues and the Office of Government Ethics folks, to ethical issues in regard to Treasury; and Mr. Cutler spoke to ethical issues in regard to White House personnel.

Mr. LAROCO. With the matter of recusal and the 3 weeks that it took for you to make that decision, would you give the committee some sense of the magnitude of that decision for you, personally?

For example, all of us have had to make the decision on this committee whether to seek election or reelection. My colleague from North Carolina, Mr. Neal, has made a decision to leave this body; and our colleague from California, Mr. Huffington, has decided to leave this body and seek a Senate seat. I wonder if those decisions were made in an overnight timeframe or whether they were a 3-week or 4-week or longer decision.

Mr. ALTMAN. I think that too much is being made of the recusal issue, because whatever I decided wasn't going to have any impact whatsoever on the case, for two reasons: First, I had no decision on any case had ever been brought to me during my time at RTC. That wasn't how the agency worked; I wasn't in that role. And second, I had explicitly affirmed in this particular matter to the RTC general counsel—and testified under oath, I believe, yesterday in the other body to this effect—I explicitly affirmed to her that she would be making the decisions on this matter, not me.

And then when I did go to the White House on February 2, I said that in unequivocal terms to the folks at the White House; and they have all testified to the effect that I did do that.

So recusal is a false issue, because whichever way I went was not going to have any impact on the RTC investigation of the Madison matter.

Mr. LAROCO. Thank you, Mr. Chairman. I yield back the balance of my time.

The CHAIRMAN. The gentleman yields backs the balance of his time.

Mr. Johnson.

Mr. JOHNSON. Thank you, Mr. Chairman. I, for just a moment, would like to refer to Mr. Lloyd Cutler, who told us to trust lawyers. All redactions or omissions were not germane—if they were not germane or were nonconsequential, were redacted. And since we received some of the redactions, we know now he was shading the truth. So after listening to your testimony last night and today, it would appear to me that the truth in these hearings is a moving target.

And with that, I yield to Mr. Nussle.

Mr. NUSSLE. Thank you, Mr. Johnson.

One of the things that I learned from the very enlightening and very interesting Senate hearings and testimony on this, where it certainly appears a lot more information and a lot more opportunity for continuity exists, is that there seems to be a conflict between the testimony of Ms. Hanson and yourself with regard to how in the world she received the green light to go over and brief Mr. Nussbaum about the criminal referrals.

It's her testimony, I understand, under oath, that she received instruction from you to go and do that. It's your testimony—I am not trying to put words in your mouth, but my understanding is that you do not recall that and you also believe it is irrelevant.

And so, first off, let me say, is it true that you did not instruct her? Is it that you don't recall or are you sure that you did not instruct her?

Mr. ALTMAN. I have no recollection of doing so. She used the word in her testimony that she was "tasked" to do it. I don't believe I did that, and I believe if I had tasked her to do it, I would have remembered it.

But let me say this is just a matter of differing recollections on events that happened 5 months earlier. There is nothing unusual about that. I just disagree with her recollection.

Mr. NUSSLE. Is it usual for the Treasury general counsel to go out and brief people just on her own accord, particularly criminal referrals, where there are RTC-specific rules, on point, indicating that "Thou shalt not go out and impart this information," number one; and number two, when Roelle himself indicated to Ms. Hanson, "Don't tell anybody else about this stuff"?

Mr. ALTMAN. First of all, my understanding is that she went to the White House, or rather that that conversation at the White House related to a press leak. And I see nothing wrong with that. Mr. Cutler also addressed the question of whether—as to the Office of Government Ethics, actually, of whether that violated any ethical codes, and concluded that it did not.

Mr. NUSSLE. So does she do that all the time? She just goes out and briefs people about criminal referrals, or don't you find interesting, at least, that she would fall back on the instruction of her boss for that kind of guidance? That is, basically, what she is saying. You gave her that task or tasked her, instructed her, to go do that. You don't—I mean, it seems to me that if I am working for you, I am going to wait for your lead before I go out and do something, particularly when the President and the First Lady are mentioned in the referral, particularly when Roelle tells Ms. Hanson that not only could they be witnesses, but in fact, that may develop into something additional as the case continues to be investigated.

Mr. ALTMAN. First of all, as I said, my understanding is that Ms. Hanson was discussing press leaks, and I believe Mr. Roelle has confirmed that that is why he advised her.

Mr. NUSSLE. Let me ask you about the press leaks. There has been no substantiation in front of this committee that I am aware of, so I am asking you if you will substantiate this for us today. There has been absolutely no substantiation that this information was leaked by the RTC. And, in fact, nobody has come forth with any proof to suggest that this was leaked by the RTC.

Now, information got out later on, but, in fact, we know the White House leaks like a sieve, sometimes for very specific purposes. I just don't understand why all of a sudden we are basing all of these ethical high-wire acts on a possibility of a leak that, in fact, we have never received proof about in front of this committee.

Mr. ALTMAN. First of all, I think we do know that the information got out.

Mr. NUSSLE. In what way?

Mr. ALTMAN. I don't know how it got out.

Mr. NUSSLE. You don't investigate this?

Mr. ALTMAN. Investigate leaks?

Mr. NUSSLE. Isn't it important to find this out? You are the boss at the RTC.

The CHAIRMAN. If the gentleman would give the witness a chance to answer his questions.

The gentleman's time has expired. I will give the gentleman a chance to answer your rather involved question.

Mr. Altman, do you—

Mr. ALTMAN. I just would say, I don't make it a practice of investigating leaks.

The CHAIRMAN. Mr. Orton.

Mr. ORTON. Thank you, Mr. Chairman. And Mr. Altman, welcome. I fell asleep last night at 1:30. I understand you were still in the witness chair. I appreciate your being here.

I think probably every question that could be asked has been asked. If you know of any that haven't been asked, you might suggest them and then answer them.

But I think the facts thus far have shown, based upon the special prosecutor's investigation, that in fact no criminal activity was involved; and based upon the Office of Government Ethics, that no ethical violations occurred. It seems to me that the reason we are here is because of some sort of smell test. Perhaps the opportunity was there for an unethical executive or staff member to improperly use information that they may have properly received.

It seems to me that unless additional evidence comes forward, which either the special prosecutor or OGE did not see, that those questions have been answered. There were no violations of criminal or ethical laws.

I understand the minority's desire to try to suggest that, in fact, the information was used improperly and to try to suggest that laws were violated, but those facts simply don't bear fruit. And unless more facts come out, I think those questions have been answered.

The question I would like to ask, however, is within our oversight jurisdiction. Our committee has the responsibility of oversight of the Treasury Department, of the RTC, of the FDIC, and all of these other agencies. And the concern I have is if information is transferred, even though appropriately and properly transferred, within the executive department, could that information be inappropriately used? We also need to determine how are we going to safeguard against, or prevent a White House or a staff which may not have the ethical standards that this White House and staff apparently have, from inappropriate use of that information.

I guess I am asking you for your recommendations. You have been Assistant Secretary of the Treasury. You have been head of RTC. I think in hindsight we could conclude that you probably should not hold both positions at once. That was not your choice; we understand that was an obligation, a failing of the system in being able to readily hold hearings and appoint your replacement or appoint a replacement for the person who withdrew.

I guess my question is, do you have any other insight? Knowing that the RTC is a separate corporation, is RTC actually functioning as a separate corporation? Is there something we need to do because there is an obvious tie and link here, a very close tie and link between Treasury Department and RTC.

Do there need to be some changes, in your opinion, in the Oversight Board of the Treasury Department? Do there need to be earlier Presidential appointments? Do there need to be some sort of breaks in the connection between Treasury and RTC?

From your perspective, what do we need to do from the legislative oversight approach to perhaps prevent information that might be used inappropriately in the future.

Mr. ALTMAN. Well, of course, the RTC is scheduled to go out of existence in September 1995, so it may be relatively academic now. But I suppose one thing that could have been done would have been to make the chairmanship of the RTC a fixed term appointment, which it isn't today. Perhaps that would make the delineations clearer.

But I think the salient point is, all we tried to do in the Treasury was to carry out the managerial reforms which we pledged to this committee we would do; and a variety of Treasury people assisted in that effort, as they are legally entitled to do under the law. And I spoke to my predecessor one day a few months ago, Mr. Robson, and he said he had a lot of folks involved with the RTC, too, because it was such a big matter. And, you know, the agency was still so young.

Maybe that's somehow the wrong thing to do, but I can't see why.

The CHAIRMAN. The time of the gentleman has expired.

Mr. Ridge.

Mr. RIDGE. Thank you, Mr. Chairman.

Mr. Altman, let me thank you for your appearance and tell you how much I appreciate the fact that the Republicans have an opportunity to interview and to exercise oversight one witness at a time rather than the pretense of oversight that we had to endure last week when we had 10 witnesses up there at one time. So I thank you for appearing by yourself.

One thought with regard to the matter that you spent a great deal of time working on and that is the RTC generally. Have you recommended, or would you support as soon as possible, the forwarding by the White House to the Congress a permanent head of the RTC? Shouldn't we move this process along as quickly as possible?

Mr. ALTMAN. I haven't been involved in any conversations on it, but I would imagine that is the White House's intention.

Mr. RIDGE. Have you made that recommendation?

Mr. ALTMAN. I have had no conversations on anything related to the RTC since March 30.

Mr. RIDGE. I appreciate your response and yield the balance of my time to my colleague, Congressman Nussle.

Mr. NUSSLE. Thank you, Mr. Ridge. There is a distinction that has been made in the ethical reports that the information that was transmitted to the White House was based on press leaks. It is for that official purpose that the ethics investigations have hung their hat on the fact that this was not unethical to do.

However, we have heard testimony from you, Sloan, Nussbaum, Cutler, Hanson, that, in fact, it was not leaks themselves, but the mere anticipation of leaks that gave you the authority to transmit this kind of information to the White House. And I think that is a new standard that is being developed here today, because under that kind of a standard, we could anticipate—based on very little information, we could anticipate leaks all over the place. And this is what concerns me about your testimony to me just a moment ago. It is illegal—let alone unethical. It is illegal. It is a criminal violation to leak this information.

And it troubles me greatly for you to sit there and not be concerned about leaks of information from the RTC, or from the Treasury, or from anybody else, but particularly the agencies or the personnel that you have under your control.

For instance, weren't you told by Ms. Hanson—weren't you told by Ms. Hanson, the Roelle caveat or the Roelle admonition, that this information was sensitive, that it was not public information, and that it shouldn't be just given out? Didn't she tell you that in her briefing?

Mr. ALTMAN. Congressman, first of all, the meeting which I attended on February 2 consisted, as the Office of Government Ethics concluded, of only information which was already in the public domain. That is the meeting I attended.

Second of all, the Office of Government Ethics also reached its conclusions about the meetings that I believe you are now asking about. Now, that is an independent body. It is not connected to our administration, and indeed, it happens to be headed by a Bush appointee. But they looked at this and took testimony from everyone under oath, and they reached the conclusion which they reached, which is essentially that no ethical violations occurred.

Mr. NUSSLE. Could you answer my question now. Don't you have a concern about leaks within your agency and the personnel under your control, that are criminal in nature. A leak is criminal. A leak is criminal. It is nonpublic information. It states it right in the RTC. States it right in the Privacy Act.

These are criminal acts to leak this information. And for you to have taken no action, let alone not appear to even be sensitive to that fact here today and to suggest that on the mere anticipation of those leaks, that it is OK to start telling everybody and their brother about this, particularly over at the White House, when we understand the relationship that you have with the President and the First Lady. You are good friends.

I mean, don't you understand the concern that we have here of the ethical highwire act that appears to be going on with regard to this case?

And that is why it is so troubling to us on this side. Because the appearance of this no big deal—Nussbaum said that in his testimony. No big deal. This is the President of the United States. And I would like you to address that question about the leaks and the anticipation of the leaks.

Mr. ALTMAN. Well, I would like to make clear, if I didn't, I abhor leaks. And if I could wave a wand, there wouldn't be leaks. I don't happen to engage in that myself. I never have.

But I have never found it—let me say I have never thought that it was productive to go around trying to determine where it came from. And in addition, I am not a lawyer and I am not certain but I don't think it is a crime to leak this. I don't believe that is a crime. I don't think it is the right thing to do. I abhor it, but I don't happen to think it is a crime to do it.

The CHAIRMAN. Mr. Bacchus.

Mr. BACCHUS OF FLORIDA. Thank you, Mr. Chairman.

Mr. Altman, I can only imagine the reaction of Mr. Nussle and his colleagues on the Republican side if you had, in fact, launched an investigation of these leaks. They would have been just as outraged, but in the opposite way.

However, I do have a couple of questions about the RTC. It is within our oversight jurisdiction and I am concerned about the leaks, as you obviously are as well.

In your capacity as Deputy Secretary of the Treasury, you have supervisory authority over criminal investigative agencies such as the IRS, the Secret Service, and the ATF. Mr. Altman, during your tenure, has any major leak from any of those agencies been brought to your attention?

Mr. ALTMAN. I am sorry, which agencies?

Mr. BACCHUS OF FLORIDA. The ATF, Secret Service, the IRS.

Mr. ALTMAN. Not that I can recall.

Mr. BACCHUS OF FLORIDA. In these hearings, we have seen that there was a very significant leak to the media in September and October 1993. I can't understand Mr. Nussle's puzzlement over this. In the chronology of the events we had Mr. Dudine stating that he advised Mr. Katsanos that the RTC has criminal referrals related to the collapse of Madison Guaranty about ready to go and that a woman who was a reporter for the *Washington Post* was apparently aware of them.

I think it is apparent that some media leaks did occur. This seems to be a significant leak. In fact, people knew in the media that there were nine referrals, one of which apparently mentioned the President and the First Lady as possible witnesses.

In your view, was the RTC acting inappropriately in providing detailed disclosures to the media?

Mr. ALTMAN. I don't think it is appropriate ever to leak anything.

Mr. BACCHUS OF FLORIDA. That is what I recall you saying.

Now let me ask you, we have got several agencies under your command which apparently don't leak. We have got one, the RTC that apparently does leak, has leaked. You have testified that you don't make it a practice of investigating leaks. That may be the right way to go. But what should be done, if anything, to prevent these leaks, because clearly that is not something that we want to do, or can anything be done?

Mr. ALTMAN. I wish I could think of something, but I am afraid leaks are a little bit like the weather, you can rail against them but you can't do much about it.

Mr. BACCHUS OF FLORIDA. Let me conclude, if I might, with a few yes-or-no questions just to bring us back to the basic facts at issue here, sir.

First of all, have you broken any laws?

Mr. ALTMAN. No, sir.

Mr. BACCHUS OF FLORIDA. In fact, the special counsel has concluded thus far that you have not; is that correct, sir?

Mr. ALTMAN. That is—I think that is a fair reading of what he concluded.

Mr. BACCHUS OF FLORIDA. And the Office of Government Ethics has concluded you violated no ethical rules.

Mr. ALTMAN. That's correct.

Mr. BACCHUS OF FLORIDA. Have you tried in any way to impede any investigation of criminal referrals relating to Whitewater?

Mr. ALTMAN. No.

Mr. BACCHUS OF FLORIDA. Have you ever conveyed anything that you considered to be improper information to the White House?

Mr. ALTMAN. No, I have not.

Mr. BACCHUS OF FLORIDA. Have you ever seen the criminal referrals?

Mr. ALTMAN. No, sir.

Mr. BACCHUS OF FLORIDA. You have never seen them?

Mr. ALTMAN. I don't believe so, no.

Mr. BACCHUS OF FLORIDA. So you don't really know what is in them?

Mr. ALTMAN. No.

Mr. BACCHUS OF FLORIDA. Have you misled this committee or the House in any way in your testimony today or in your answers to any of these questions?

Mr. ALTMAN. I have never misled any committee at any time in my public career.

Mr. BACCHUS OF FLORIDA. It seems to me, Mr. Altman, that you stand accused of being imperfect and being a friend of the President of the United States, and I plead guilty to those same charges.

I yield back.

The CHAIRMAN. Will the gentleman yield?

Mr. BACCHUS OF FLORIDA. Yes, of course.

The CHAIRMAN. To me.

Mr. BACCHUS OF FLORIDA. Yes, of course.

The CHAIRMAN. I thank the gentleman. Because he has raised this question about is there anything anybody can do about leaks.

Well, I think the most notorious example of an attempt to try to do that was the Nixon White House in setting up the plumbers. Have you heard of the plumbers?

Mr. BACCHUS OF FLORIDA. Isn't there a fellow on a radio talk show now who sets himself up as the paragon of morality who was convicted of that crime, sir?

The CHAIRMAN. You had a President setting up a whole section involving CIA and FBI and everybody as the plumbers to do what? Try to stop leaks.

Mr. FRANK. And then somebody leaked about the plumbers.

The CHAIRMAN. Well, I just wanted to make the point that Mr. Altman has answered about as aptly as you could. You can rant, you can rage, you can try to do something like Mr. Nixon did, but it is going to happen.

I believe Mr. Thomas has returned and seeks recognition.

Mr. THOMAS. Yes, thank you. Mr. Chairman, I am going to yield my time and see if we could get Mr. Altman back in the conversation.

Let me make the observation that it was interesting to me that you recited all of the things that you had done with RTC, at the same time said that you had nothing to do with RTC. It was sort of an interesting observation.

Mr. ALTMAN. No, sir, that is not what I said. That is not what I said.

Mr. THOMAS. That is what I understood you to say.

Mr. ALTMAN. I want the record to show that that is not at all what I said.

The CHAIRMAN. Mr. Lazio.

Mr. LAZIO. Thank you very much.

Good morning, Mr. Altman. I just want to begin by saying that, clearly, this is one member who is not looking to hang you out. And as a matter of fact, I have worked with you in the past and helped you with RTC funding, helped set up meetings between you and other members, and tried to be constructive. But, certainly, what we want to do here is get to the bottom of this and get this episode behind us one way or the other.

Let me begin by asking you, because you made certain comments about what things need to be done, including a fixed term of office for an RTC chief would be better if a dual role would not be permitted, was one of your answers. It is not wise, and there should be some legislative change. Don't those suggestions indicate that there needs to be some isolation of the RTC head from politics and from extraneous intervention?

Mr. ALTMAN. Well, I just think that it probably would be better if the RTC head was an independently confirmed individual serving—perhaps serving a fixed term.

Mr. LAZIO. In my experience, setting fixed terms for a police commissioner is to remove that individual from political pressure and independence, and it seems to me—let me ask you to comment on this, whether perhaps the single biggest mistake that you and the White House made was to confuse the roles of regulator and politician.

In one sense, you were certainly in the inner circle to candidate Clinton when he was running for office. You advised him on economic issues. You ran the war room. You were probably the premier sub-Cabinet official at the White House. From my understanding, you were there as often as three times a day during some times. Your political acumen was respected and admired, and it helped you command passage through Congress of the Clinton economic plan.

Mr. ALTMAN. That was in my former life.

Mr. LAZIO. And you took the political lead in steering the funding for RTC through this panel and through the committee.

But given all that political background, don't you think that your role as head of the RTC, an independent regulatory agency that supervised the S&L cleanup, was inappropriate? Didn't the possible conflicts just scream at you given your role and your background and your second hat as heading up an independent regulatory agency charged with cleaning up a major S&L scandal?

Mr. ALTMAN. I think it is important to think back to what the motivations were. The motivations were honorable motivations. When Secretary Bentsen asked me to take the job, the alternative was to leave it unfilled. I think it was the right thing to do to try to take hold of that operation, rather than let it drift, so I really don't look back on it and say that was a misguided idea.

Mr. LAZIO. When you took the job, did the ethical bells go off in your head that there may be a problem here, given your past experience with the Clinton campaign, with the White House, with the political end, with having the second hat as an independent regulator?

And let me follow up and ask you, did you then not go and speak to somebody and get some advice as to the potential conflicts that may arise at that first point when you first assumed control of the RTC?

Mr. ALTMAN. Well, first of all, I have always tried to conduct myself in an ethical fashion. I think I always have. I have confidence in my ability to do that.

Second, of course, there is a considerable legal staff in the Treasury and in the RTC to help be sure that the proper legal and ethical standards are met.

Now, once again, I regret this entire controversy, and I wish it had never arisen, but I didn't do anything unethical. I was never involved in any individual case or any individual negotiation during any of my time at my tenure there. I never played any role in that.

Someone mentioned sometime earlier, perhaps Mr. Nussle, this Dalton case. I never played any role in the Dalton investigation, nor asked to, and all the press accounts to that effect are wrong.

So I did the best I could.

The CHAIRMAN. The time of the gentleman has expired.

Mr. Sanders.

Mr. SANDERS. Thank you very much, Mr. Chairman.

Mr. Chairman, as I indicated last week, I am deeply concerned that we are going to be spending 5 days on these hearings. As you know, two-thirds of the American people are not going to vote in November. The vast majority of the people are losing faith in their

democratic government. They don't pay very much attention to what goes on in Washington because they think we are not listening to their pain and their frustration. And we go on and on and on on inside-Washington things.

Our people are becoming poorer. We don't have hearings on that. Millions of decent manufacturing jobs are going to the Third World. We don't have hearings on that. The gap between the rich and the poor is growing wider. Somehow we don't have hearings on that.

Twenty-eight percent of the Members of the U.S. Senate are millionaires, and more and more people are coming into the Congress who can pay enormous amounts of campaign funding to themselves to get elected, representing the wealthy and powerful. We don't have hearings on that.

The highest rate of childhood poverty in the industrialized world. We don't have hearings on that.

And it concerns me very much that day after day we go on in this and the American people are saying, I am hurting. I am losing my job. My wages are going down. I can't afford to send my kid to college.

We used to be first in the world in terms of our industrial strength. Now our workers are 13th.

What is the U.S. Congress doing? It is amazing. We are going to give an election in November and it is amazing that anybody is going to come out and vote.

I would hope that we change the priorities of the U.S. Congress around and begin to address the real issues facing the American people.

Now, I do think that there are issues here of concern. Whether we need 5 days of hearings, I doubt. But I think there are issues of concern that I would like to address, Mr. Altman, with some of the concerns that I have.

Mr. Altman, it appears to me, based on everything that I have heard and read, that you did not give the White House any favorable treatment relating to the decision of whether to file civil suits regarding Madison Guaranty in terms of the statute of limitations.

Mr. ALTMAN. No, I did not.

Mr. SANDERS. Nevertheless, I think it is important to figure out what was said at the February 2 meeting because I am concerned that the White House may have indicated that it wanted favorable treatment.

As I understand it, you indicated to the White House staff that you were thinking of removing yourself from any official responsibility for the Madison Guaranty investigation, and even, as I understand it, if you kept official responsibility, you were not going to make the substantive decisions, but rather you were going to let Ms. Kulka, an RTC staffer, make them; is that correct?

Mr. ALTMAN. It is, but I would put it a little differently. I had never made any decisions on any case at any time. So this was not a new position or a new posture.

I just reaffirmed to Ms. Kulka, as she testified before the Congress under oath, that she would be making the decisions in this one as she would do or her staff would do in every other one, and when I went to the White House I was unequivocal in telling them

that, and I believe the White House participants have testified to that effect.

Mr. SANDERS. It has become clear that the White House indicated that it didn't want you to withdraw from official responsibility. That is what we have been hearing. Although I believe these statements are examples of perhaps poor judgment, I don't see them as an attempt to improperly influence the investigation if the White House does not also criticize your decision to let Ms. Kulka or another competent RTC staffer without White House connections make all substantive decisions.

When I asked Mr. Ickes, Ms. Williams, and Mr. Eggleston whether anyone indicated disagreement with your plan to follow the RTC staff recommendation, they each responded quite emphatically, no. However, Ms. Hanson testified that Mr. Nussbaum expressed concern about Ms. Kulka, the key staffer.

Could you please describe the context and the content of Mr. Nussbaum's February 2 statements relating to Ms. Kulka.

Mr. ALTMAN. I would like to put this in context. The entire discussion on that subject might have consumed 10 minutes. And I was asked and Ms. Hanson was asked some questions about who would be in charge when it was clear that I was not be involved. Who was Mr. Ryan? What was his background? Who was Ms. Kulka? What was her background? And so forth.

Mr. Nussbaum has testified, I believe, right here, that he had a recollection of Ms. Kulka being very tough, or something to that effect. I wasn't here when he testified. But I think the salient point is no one said to me, Don't recuse yourself. That is unacceptable. You can't do that. No one said that.

And everyone has said that at the end of the meeting it was understood—even Mr. Steiner's diary says this—that I would be playing no role in the case.

This is a false issue. I was never going to play any role in the case because under no circumstances did I ever play any role in any case.

The CHAIRMAN. Ms. Pryce.

Ms. PRYCE. Thank you, Mr. Chairman.

Mr. Altman, I must say that I do admire your fortitude. And having said that—

Mr. ALTMAN. Thank you.

Ms. PRYCE. I want to go back to your opening in which you suggested that three independent investigations had been conducted regarding the legality or propriety of the White House-Treasury-RTC contacts.

Now, this has become a theme, almost a chorus of most of our witnesses and many of the members on the other side. And before we start playing too fast and loose with our terminology, I think it is incumbent upon someone to once again correct the record in this respect.

First of all, the Office of Government Ethics is not an investigatory agency, as I understand it, and that it seems to me Mr. Pott's conclusions are based on other people's reports, those reports being the same IG reports that Mr. Cutler was privy to before he testified before this committee.

And second, you referred to the independent investigation of current White House counsel, Lloyd Cutler. Mr. Altman, in view of his current position within the administration, his analysis of these contacts and communications can hardly be considered independent.

Third, and finally, Special Counsel Fiske specifically stated that he was rendering no opinion as to whether or not there had been any ethical breaches or violations.

So I think we have to be very careful about what we are saying instead of lumping all of this together. There are three investigations, but they don't all do what people have been saying. And there is already enough issues of ethical import regarding the substance of the very limited scope of these hearings already, and I see no need to compound the problem by misleading the American public about the investigations heretofore.

So with that, I will yield back the balance of my 5 minutes to Mr. Lazio.

Mr. ALTMAN. If I could make one brief comment, and I appreciate the point you made at the beginning. Thank you. But there is no effort to mislead anybody.

There has been these investigations. There have been reports issued—

Ms. PRYCE. I never said that anyone intended to. I said we have to be very careful about the use of our words, and many members of the other side of the aisle keep talking about these ethical investigations that have not taken place. So I just wanted to clear that up.

And there is no question and I want to yield back to Mr. Lazio. Thank you.

Mr. LAZIO. Thank you.

Mr. Altman, the RTC stated in their written response to questions following the February 24, 1994 meeting that disclosure of any information concerning a criminal referral may serve to alert a suspect that an investigation may be pending, enable the suspect to conceal or dissipate the proceeds while fabricating or otherwise impeding the investigation. Are you familiar with that warning?

Mr. ALTMAN. Not precisely.

Mr. LAZIO. Do you agree that is a legitimate concern?

Mr. ALTMAN. Well, just as I listened to your words, I can appreciate that it is a legitimate concern, yes.

Mr. LAZIO. And is there a policy of the RTC to not disclose information regarding criminal referral?

Mr. ALTMAN. Yes, there is.

Mr. LAZIO. Are there any exceptions to that policy when referrals extend to press inquiries?

Mr. ALTMAN. Well, I am not an ethics expert and I am not a lawyer. Again, people wiser than I am in those areas have looked into these matters and they have rendered judgments on them.

Mr. LAZIO. I guess what I am asking you is, Ms. Hanson testified before the Senate that there was no leak at the time that she spoke to Mr. Nussbaum. Yet, you have said, I believe, and correct me if I am wrong, that that was—do you agree with that, by the way, that there were no leaks at the time that she spoke to Mr. Nussbaum, there were no actual leaks?

Mr. ALTMAN. My understanding is that she spoke to Mr. Nussbaum about publicity which the RTC expected to occur and later did occur. I think Ms. Hanson herself said that she didn't know whether it has already occurred or not.

Mr. LAZIO. And assuming that it had not occurred, and that was for the breach of the confidentiality, doesn't that, taken to its logical extension, mean that the RTC was honoring the breach as the rule as opposed to the general rule of confidentiality?

Mr. ALTMAN. I just have to refer back to the independent investigation which was conducted in regard to that item and other items like it.

The CHAIRMAN. The time of the gentleman has expired.

Mr. Klein.

Mr. KLEIN. Thank you very much, Mr. Chairman.

Mr. Altman, I approached all of these hearings with a totally open mind. I have sat through 3 days of hearings now and I will spare everyone who may still be listening, the problem of reiterating what has been stated over and over again regarding the fact that independent persons have determined that there is no criminal or ethical evidence of wrongdoing.

I would like to go into an area, though, that is of concern to me or at least has been raised as being of concern. And that is what seems to be clearly a management problem, and that is the fact that you held simultaneously the position of Chief Executive Officer of the RTC as well as Deputy Secretary of Treasury. And there are those who have pointed out that that may have been a management problem of some significance.

What I'd like to find out, is it not so that at the time that you entered that position, the RTC had serious management problems which had been inherited from the prior administration? Am I correct?

Mr. ALTMAN. Yes, there were management problems and we addressed those, at least—

Mr. KLEIN. Well, I will get into that in a moment.

This administration was approximately, what, 5 or 6 weeks old at that time?

Mr. ALTMAN. Yes, sir.

Mr. KLEIN. And there was no person who was in the position of Chief Executive Officer of the RTC?

Mr. ALTMAN. Mr. Casey had stepped down.

Mr. KLEIN. Mr. Casey had stepped down and there were only two people in the Treasury Department who had been confirmed at that time.

Mr. ALTMAN. Yes, sir.

Mr. KLEIN. And you were assigned the position of additional duty to be the Chief Executive Officer of the RTC.

Mr. ALTMAN. Yes, sir.

Mr. KLEIN. And in that capacity, as I understand it, the day-to-day management was left to the previous senior officials of the RTC who were Republican appointees. Am I correct?

Mr. ALTMAN. Not entirely. They were career officials. They happened to have been chosen by Mr. Casey, who was appointed by President Bush, but they were career officials who had come to the RTC from the FDIC and now have returned to the FDIC.

Mr. KLEIN. When I came here, and I am in my first term here, one of the first things that came to my attention as a member of the Banking Committee were the problems of mismanagement at the RTC, problems of mismanagement that existed for a long time, before either of us came here. And we addressed those, or at least tried to address those, in the RTC completion legislation. And it is my understanding they have been addressed.

Is it not so that management reforms were instituted under your jurisdiction as Chief Executive Officer, which included, first of all, the establishment of a comprehensive business plan for the RTC, the appointment of a chief financial officer, whereas previously those duties were at least in part performed by Treasury officials? Third, the appointment of an Assistant Attorney General for Professional Liabilities so that there would be one person who would have responsibility for overseeing the overall campaign to recover funds from professionals who had been responsible for huge losses in the savings and loans; the establishment of a marketing program that would permit the sale of real estate to individuals rather than in bulk, as it had been done previously, and that the earlier bulk program had resulted in very, very low-ball sales to large purchasers who, in turn, resold the property at huge profits? That program was ended as a result of your management reforms, am I correct?

Mr. ALTMAN. Largely, but on the legal side, the primary step was, first of all, to choose a competent and full-time general counsel. And there were some other reorganizational steps that took place there, but I think, by and large, that is correct.

Mr. KLEIN. And all of those management reforms and many others were instituted under your supervision, am I correct?

Mr. ALTMAN. There were quite a few.

The CHAIRMAN. The time of the gentleman has expired.

Mr. VENTO. Mr. Chairman, a point in clarification; the principals at the RTC, the officers were appointed by Mr. Seidman and/or by the early Bush administration, not by Mr. Casey. Roelle and Kelly, I think the record should show that they have been there since 1989. And not by Mr. Casey and certainly not Mr. Altman.

Mr. ALTMAN. I stand corrected. I think the point is that we thought they were good fellows and we kept them.

The CHAIRMAN. Mr. Roth.

Mr. ROTH. Mr. Chairman, I am going to yield my time to Mr. Lazio, but before I do I have a question.

In answer to Mr. Klein's question regarding Mr. Casey, you had mentioned that Casey stepped down. Isn't it true that Mr. Casey was dismissed?

Mr. ALTMAN. No, sir, that is not true.

Mr. ROTH. Well, I serve on the Oversight Committee and Mr. Casey was before us and he said he would have been more than happy to stay.

Mr. ALTMAN. That is a little bit different than being dismissed.

Mr. ROTH. How is it different? It isn't that Mr. Casey said that he wanted to leave. It wasn't Mr. Casey's decision to stay or leave. It was Treasury's decision.

Mr. ALTMAN. I don't recall the exact details, but I recall Mr. Casey coming in and saying to Secretary Bentsen and at one point

saying to me, that he would be happy to stay on, yes, and I think we said that that was—he had done very well, but we wanted to proceed on our own—our own management reform program at the RTC. And we thanked him for his service.

Mr. ROTH. And he was dismissed.

Mr. ALTMAN. I just wouldn't characterize it that way.

Mr. ROTH. I think if you read the record, that it is. And what is intriguing is that the Clinton administration was notorious for not appointing people and here they had a person who was competent who wanted to stay who was dismissed to bring in yourself. And the question is, why were you so hellbent to get rid of Casey?

Mr. ALTMAN. Well, Mr. Roth, we were not hellbent to get rid of Casey.

Mr. ROTH. Again, I serve on the Oversight Committee.

Mr. BARRETT. Mr. Chairman, point of parliamentary inquiry. Does this go beyond the scope of this hearing?

The CHAIRMAN. I was going to ask the gentleman to yield to me; that is, Mr. Roth.

The committee will have the Secretary himself tomorrow. I believe at that time it would be more appropriate for you to raise that issue rather than with Mr. Altman.

Mr. ROTH. The reason I followed this type of questioning, Mr. Chairman, was because Mr. Vento started and so I thought I would make a correction for the record here.

The truth of the matter is, Mr. Altman, is that Casey was going to stay and he was going to close out RTC by the end of the year. He testified before our committee on that and now here you are telling me that, well, he wanted to leave. That is not the truth of it at all. In fact, Bentsen didn't even talk to him before he was fired.

Mr. ALTMAN. I am just saying, Mr. Roth, I don't—perhaps we are looking at the same facts and just characterizing them differently, I don't know. I don't believe Mr. Casey was dismissed or fired.

Mr. ROTH. Well, you know, Mr. Altman, up to this point I have believed every word you have said but now there is a real credibility gap here. I remember distinctly Casey being before us, and I questioned him on this. There was no question as to what happened in the Casey matter. And the question I have is, why were they so intent on getting you into that position?

Mr. ALTMAN. Mr. Roth, first of all, you are right, Mr. Casey wanted to stay on, you are right on that. I am not trying to challenge you. I am saying there is a difference between that and firing somebody. Perhaps you don't agree.

Second of all, I didn't want this assignment. All kinds of people can attest to that. I was born in a night but not last night and I knew this wasn't exactly a choice assignment. If there had been any alternative that I could have thought of or perhaps Secretary Bentsen could have thought of, we would have done it. But as I said in my opening statement, during the conversations we had about disappointment, there was never a single reference, not a syllable to Madison Guaranty or any cases.

I think this hearing is essentially—

Mr. ROTH. You are a sophisticated man. You do not have to have references. That is not the way things are done.

Mr. ALTMAN. Well, Mr. Roth—

Mr. ROTH. Come on, who are you trying to kid? People don't go around saying point-blank this is what we want you to do. There are other signals given besides that. And the truth of the matter is that Casey was let go, Mr. Altman. That is the truth of the matter. And the question I have is why were you so intent on kicking him out when you left all of these other positions unfilled and put you into that position?

Mr. ALTMAN. First of all, Mr. Roth, if the thrust of your earlier comment is that there was some sort of wink and nod about any case, Madison or any other case, which was associated with my appointment, you are wrong. You are simply wrong.

Mr. ROTH. Well, that remains to be proven.

Mr. ALTMAN. In my judgment, Mr. Roth, you are wrong.

Mr. ROTH. Yes.

Mr. ALTMAN. Second of all, we didn't have a low regard for Mr. Casey or anything to that effect. And I don't mean to come before this committee and suggest that he didn't do a good job. I think he did do a good job. We wanted—we had a series of changes we thought should be made in the agency and history will show we made them. I'm sure a lot of them wouldn't have been made by Mr. Casey. He had a different point of view. We thought there were changes to be made and we wanted to get on and make them and we did make them, at least a lot of them.

The CHAIRMAN. At this point the Chair is going to ask that he be permitted to clarify the record here with respect to Mr. Casey.

The gentleman probably might or might not remember this, but Mr. Casey anguished because he could not get President Bush to back him in an election year in his request for the necessary funding to close out the resolution of the yet to be resolved institutions. He called me personally to let me know that he was sorely distressed with President Bush; that he felt he had been let down; and that his attempts to try to enlist the aid of President Bush had been unsuccessful and wanted to thank me for having persisted and attempted to get the majority, in light of the steadfast refusal of the minority, to fund RTC.

So if the gentleman wants to paint a picture of Mr. Casey being summarily dismissed by an incoming administration, where customarily incoming administrations, as reflected in the appointment of Federal attorneys throughout the country, that is the first thing that is done is, to replace. And since the appointment of Mr. Casey was one of those appointments, the incoming administration had judgment decisions to make as to how to fill.

The other thing I want the record to show, I think it is necessary, is that Mr. Altman never occupied the position as the head of RTC even in a quasi-permanent form. The description was acting chairman. Interim. And as far as the 120-day limit of those temporary appointments was concerned, we heard from counsel the first day of this hearing as to how precedence established in that one—in interpreting the 120-day limitations permitting a little extra time.

So I think that the record should be clarified in that respect, because at no time have I heard anybody on either side mention the fact that it is true that Mr. Altman was attempting to hold two jobs

down; one was only an interim appointment to allow the President to have time to select, in his opinion, a proper appointee.

Now, the record also ought to show that after the 1989 act became law on August 9, 1989, and we set up the Office of Thrift Supervision [OTS], where it took President Bush 6 months to name a head or director of the OTS. In fact, in October, I was impelled to write a letter to the President asking him, for several issues that had arisen in connection with Mr. Seidman to try to please get somebody appointed. I wrote again in December. So that we must not try to abrogate to ourselves, Mr. Roth, executive——

Mr. ROTH. But, Mr. Chairman——

The CHAIRMAN. Executive, administrative.

Mr. ROTH. Mr. Chairman——

The CHAIRMAN. Judgment, decisionmaking evaluations that we on our side of this three-part government are not in a position to properly judge or even have any responsibility therein.

Mr. ROTH. Mr. Chairman.

The CHAIRMAN. Yes.

Mr. ROTH. You have an inquiring mind. I am just curious. You know, Mr. Altman was telling us here today that Casey was doing a good job and that he also said that Casey was more than willing to stay on.

The CHAIRMAN. That is right.

Mr. ROTH. Now, are you not just a little intrigued as to why all these offices are unfilled, and here is Casey, a good man doing a good job, but he gets kicked out summarily and then an acting CEO comes in? Does it not intrigue you just a little bit? It did me when we had the oversight hearings, and that is why I said I smell a rat here.

The CHAIRMAN. I would counterbalance this judgment not to continue the appointment of Mr. Casey with the still inexplicable, to me, decision to appoint Jay Stephens.

Mr. ROTH. Jay Stephens has nothing to do with this.

The CHAIRMAN. A political partisan to investigate the President. Now——

Mr. ROTH. You know, Mr. Chairman——

The CHAIRMAN. In all fairness, the gentleman——

Mr. ROTH. Mr. Chairman, I think you are really reaching here. But I will tell you something, if someone inquires as to why Casey was let go and why Altman came in, there is a real story there. I think that people are really concerned about Casey staying in that job and what would be revealed on RTC. I felt that at the time and I still do. I feel it more strongly now than ever before. There is something wrong there.

The CHAIRMAN. The gentleman is on record as to that respect.

Mr. BACHUS OF ALABAMA. Mr. Chairman. Mr. Chairman.

The CHAIRMAN. Mr. Bachus.

Mr. BACHUS OF ALABAMA. You, in correcting the record, you mentioned the 120-day period, which I think is a 130-day period.

The CHAIRMAN. Right.

Mr. BACHUS OF ALABAMA. And you said that Mr. Cutler said that Presidents had established that you could fudge that figure.

If you will recall, I have asked him, he said he had an ethics opinion saying he could do that. In my questioning of him I asked

for that ethics opinion. I have also called for that ethics opinion. I have not received it and wanted to inquire of the Chair if we had received that opinion.

The CHAIRMAN. Not to my knowledge. And I believe that that is in the record. The gentleman is correct.

Mr. BACHUS OF ALABAMA. I would renew my point that this committee has not been supplied with that opinion that he testified that he had.

The CHAIRMAN. Well, he may have and I am not aware of it.

Mr. BACHUS OF ALABAMA. Also, Mr. Chairman, you also stated that this committee had no duty or responsibility over some of the RTC operations, and I would remind the chairman that through RTC oversight, these questions could be properly raised but we have not had a hearing for almost 18 months.

The CHAIRMAN. The gentleman has made that position very clear and I appreciate it.

Mr. BACHUS OF ALABAMA. Thank you.

Mr. ALTMAN. Mr. Chairman. Mr. Chairman, could I—

The CHAIRMAN. Regular order.

Mr. ALTMAN. I withdraw.

Could I just ask for a 5-minute break so I could go to the men's room?

The CHAIRMAN. We will recess to allow the gentleman whatever time is necessary.

[Brief Recess.]

The CHAIRMAN. The committee will please come to order.

The Chair will recognize Congressman Schumer.

Mr. SCHUMER. Thank you, Mr. Chairman. I apologize to you and other members of the committee, trying still to get votes for the Crime bill rule and I have been busy all morning on that.

I would like to—it is less easy than it seems, Mr. Chairman.

I guess, you know, look, we have seen in the Washington end of the hearings that neither have there been criminal violations or ethical violations. That, clearly, if you look at this hearing and what its purpose is, either looking forward or looking back—looking back is finding out who did something wrong and what price should they pay. That is the job of the criminal violations, the ethical violations. That is happening. That is not our job, that is beyond our control. It seems to me the most productive thing we can do is look forward and say, look, obviously, there were no criminal violations, ethical violations, some are trying to make more out of this than there should be, but I think also, Mr. Altman, you would admit—all of us on this side too—this is sort of a mess and we wish that it had not happened.

Mr. ALTMAN. Yes.

Mr. SCHUMER. So let's strike sort of. Let's say this is a mess and we wish it had not happened. So my questions to you are, given everything you have been going through, and I am sure you have thought these points over 50 times and you have a very good mind, what do you think we ought to do in the future in terms of change so we will not have a second mess like this?

And I have three areas I would want to ask you about. The first is the dual appointment. You did not, obviously, eagerly seek out the RTC appointment once you were Deputy Treasury Secretary. In

all fairness to you and the administration, I didn't hear anyone on this committee or anyone else say it was a bad idea when it happened. It, obviously, creates problems.

Do you think we should pass or we ought to amend the statute and say that the head of RTC could not be someone who also was a Presidential, a direct political Presidential appointment in the Treasury Department or any other agency?

Mr. ALTMAN. Yes, I do.

Mr. SCHUMER. OK. I do too and I think that is one place we ought to go. Obviously, you can try to do both jobs very well and you still run into conflicts between the mandate of the one job and the mandate of the other.

The second is on the issue of recusal. You were making your own judgments day by day based on a variety of different circumstances. Can you give us your thoughts on what kinds of proposals, whether they be regulations within the administration or things that ought to be done by the Congress, I don't know if it would be this committee's role, it might be the Government Operations Committee's role on what kind of rules we ought to have on recusal?

Mr. ALTMAN. Mr. Schumer, that is a harder one because, of course, there are very detailed ethical regulations on recusal.

Mr. SCHUMER. I mean, how they might be changed to—to make it clearer. You know, you have been sort of pushed back and forth and around on the fact that there is so much area of gray here.

Mr. ALTMAN. I think one has to be careful about changes there, and let me explain. There are some who think that anybody who is appointed by the President to any job shouldn't make any decision which could conceivably have any impact or indirect or remote on the President. That is one standard you can use and there are those who would like to. I think that is too far. The area I suppose that could be tightened is the area of appearances.

I was advised, including twice in writing, that there was no legal or ethical requirement for me to recuse. In addition, just to illustrate how complex this is, the Office of Government Ethics' report, which came out Sunday, implicitly criticizes me for having recused and not having followed my duty to serve. And I think that just illustrates this is not an easy one. But the problem that arose here is essentially a problem of appearances.

So perhaps, and you would have to consult an ethics expert, but perhaps building in some tighter tests on appearances might strengthen the recusal guidelines. I think that is a difficult area, though, because we do not want to get into a situation where, A, you basically have to recuse yourself on every other matter that comes to you; or it is entirely arbitrary. You know the point the Office of Government Ethics makes is it may not be a sufficient reason to recuse yourself because it is convenient for you to do it.

Mr. SCHUMER. But you can make an argument that if someone is in the line of command above you—my time has expired, just let me make this point and get you to briefly comment—it might be susceptible to wrongdoing and that should be an automatic recusal.

Mr. ALTMAN. Yes, you could conclude that, sure.

Mr. SCHUMER. OK. Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Linder.

Mr. LINDER. Thank you, Mr. Chairman.

Mr. Altman, you are the 13th witness to appear before us on this matter, and I must tell you that this story is becoming less and less believable. An entire administration which has shown a routine disinterest in and disgust for the press suddenly becomes paranoid over a single potential news story causing 40 contacts between the most senior members of the administration, a story which, by the way, has not yet been written as of 10 months later.

We have seen a collective loss of memories of startling proportions. We have seen a massive coverup of information under the guise of lawyerly redactions, directed by the same general counsel whose judgment has cleared every member of the White House staff, the same counsel who improperly used IG investigations to coach witnesses, and even people who have apparently lied to their diaries. As Mrs. Roukema says, this strains credulity.

And with that, I would yield the rest of my time to Mr. Lazio.

Mr. LAZIO. Thank you. I just want to touch for a moment on when you first became head of the RTC, Mr. Altman. Bill Roelle, who is a career public servant, has testified under oath that he briefed you on the first criminal referral involving the—referral to the Department of Justice, where the Clintons were mentioned as potential witnesses. Do you recall that?

Mr. ALTMAN. No, as I testified, Mr. Lazio, I don't recall that. But I think the more important point is that whether it happened or it didn't, I didn't impart the information to anybody.

Mr. LAZIO. It is possible it did happen?

Mr. ALTMAN. Yes, it is possible. I don't recall it, but it is possible.

Mr. LAZIO. And would that briefing by Mr. Roelle of you concerning the referral have been consistent with your directions to your staff at RTC to keep you closely apprised?

Mr. ALTMAN. No, sir. No, sir. That has been much mischaracterized. I never asked to be kept abreast of investigations or cases. I never asked and I never sought to be. All I asked was that before the RTC releases a decision, any decision, which could have major press impact, please let me know just before the press knows so I will be in a position to address myself to the inevitable inquiries. That is all I asked.

Mr. LAZIO. Let me ask you, just consistent with that, I do not know if this is correct, that there was a staff meeting at RTC involving an S&L that you did not attend, Mr. Newman sat in for you. During that meeting there was a discussion involving the S&L and Mr. Hyde, you did not find out about that, but, according to the information that I have, you were angry that you did not hear about it and you wanted to be informed beforehand, that it wasn't good enough to tell Mr. Newman and that you expected to be closely apprised of these things.

Mr. ALTMAN. Mr. Lazio, I don't—I don't know who told you that, but that is not correct.

Mr. LAZIO. Let me ask you, again going back to this briefing with Mr. Roelle. Right after that time there was a news article that was faxed to Mr. Nussbaum twice. I believe you have testified that you do not remember having faxed that from your office to Mr. Nussbaum's personal office.

Mr. ALTMAN. Again.

Mr. LAZIO. Is that true?

Mr. ALTMAN. Again, I think it's the same points. I don't remember doing it, but if I had there would be nothing wrong with doing it.

Mr. LAZIO. Is it possible there was a connection between the faxing of those documents and the discussion with Mr. Roelle, the briefing that Mr. Roelle gave to you? Does that help to tickle your memory?

Mr. ALTMAN. No, I don't agree with the premise. I don't remember faxing that press article to Mr. Nussbaum, but I may have. I think the underlying question is, is there anything wrong with faxing a press article to anybody at any time?

Mr. LAZIO. I think I disagree with that. The question here is not whether it was wrong to fax the article, it is your state of mind at the time. That is what we are trying to probe here and to corroborate whether there was a briefing.

You say it may have happened, Mr. Roelle says it definitely happened, under oath; whether he did brief you at that time as to the criminal referral involving again the Clintons as possible witnesses.

Mr. ALTMAN. Well, I am not sure what the question is.

Mr. LAZIO. The question, I guess, is were the two events related; the faxing of the documents within days, I believe, of the briefing, the two faxes within hours of each other, one at night, about 9 o'clock, the next the first thing in the morning when two faxes came into Mr. Nussbaum's personal office, to his personal attention, involving Whitewater and Mr. Roelle's briefing of you about the first criminal referral and, again, the Clintons as possible witnesses.

Mr. ALTMAN. Those events occurred, or apparently occurred, in March 1993. It's now August 1994. I don't know about you, and I think I have a good memory, but I can't remember everything that happened 1 month ago, let alone 18 months ago. So the notion that I don't remember that, have no recollection, don't believe it happened, I don't find all that unusual.

To the best of my knowledge there is no connection between the two. But the point I want to make most forcefully is, nobody has suggested, I don't believe, that I imparted any improper information to the White House at that time or at any other time, and the Office of Government Ethics looked into that and took testimony under oath. So if you are trying to suggest that perhaps there was some improper information conveyed to Mr. Nussbaum, that just didn't happen.

Mr. LAZIO. I am just trying to establish facts, Mr. Altman. I am not trying to suggest anything.

The CHAIRMAN. Time of the gentleman has expired. The witness has answered the question.

Mr. Kanjorski seeks recognition.

Mr. KANJORSKI. Thank you very much, Mr. Chairman.

Mr. Altman, first of all, I want to tell you that you are interfering with my sleep—

Mr. ALTMAN. Sorry about that.

Mr. KANJORSKI. And I resent that a great deal. I could not stay the course, but I tried to watch the hearings a second time. That goes to show you what kind of a junkie I am about these things.

Mr. Altman, 90 percent of what we are experiencing in what is called Whitewater is called politics, and I enjoy listening to the other side talk about it, but there is 10 percent that we have to talk about.

I think it raises in my mind, can we have a spouse of a future President that is engaged in a profession or a responsible position before the election of that President? Can we have a promising professional engage in investments prior to the election of public office, and can they fail? How horrible it is to fail in America, as obviously the Clintons are experiencing from this failure of their investment in Whitewater.

All those aside, I think the answer comes down, listening to what Mr. Schumer was trying to say, there is no way we can write ethics to cover things that may occur in the future because the possibilities are limitless and we are not going to try to do that. I think, and I really am going to get to the point of watching your testimony and the 10 percent. The important thing to me is that when a member of the President's Cabinet or official family comes to the Hill and they respond to a question, it is a great obligation on their part to answer the question as asked and to answer the import of the question asked. And I think that what I discern, and some of the members on the other side that questioned you last night, maybe some of the members here, is that maybe your answers are just a little too precise; that they become annoying in terms of they didn't encompass what may have been intended by the asker of an imprecise question.

The reason that creates a problem is because you see here the 5-minute rule. We get a very limited period of time to ask you a question. We are asking the question generally for legislative purposes of what we have to do and we cannot pin a witness down or we cannot examine in such a nature as to cover all avenues of misconceptions which we, as listeners, may have.

So if you are guilty of something, it is probably in responding precisely to questions asked and offering no more. And I would suggest that when I ask questions, I would like you to offer more than you did in prior hearings.

I think it is incumbent upon you and your counsel, Ms. Hanson, to not feel precluded because of some answer. I think if there is a statement made that could gain the wrong inference or implication because it was too narrowly drawn, but very precise—but, obviously, the asker of the question desired more—that it is incumbent on you or your counsel to straighten that record out a little faster than 3 weeks.

I think if I had to say anything, it is an annoyance. That is what this hearing is all about. Maybe that message should go downtown, because I want to refer back. I have had the pleasure or displeasure of serving on this committee for 10 years now and for 8 of those 10 years, with two prior administrations.

They were frustrating. You would call Cabinet officers or leadership positions in that administration and they would purposely

come up here with the idea of telling the Congress the least possible and sometimes not the correct answers and it was frustrating.

I would hope that this administration and you, individually, take this experience back; that if the question is asked again how many contacts, you are prepared, very broadly, to respond to that as the import of that question intended. And I don't think we would be here today.

Now, we cannot get rid of 90 percent of the politics. That is going to happen, but there is a legitimate 10 percent here, and I hope that if nothing else, we discern that.

But let us not engage in rewriting ethics rules and more manuals and more books, quite frankly. I think the Federal Government has too many written words and not enough just clear understanding. Maybe if we could get a little bit more trust between the executive branch and the legislative branch, be a little more candid and relaxed with each other, we wouldn't have these problems.

So I guess my question is only, Mr. Altman, will you take some experience from this when you go back to continue to serve, as you well may, as you have very ably, as the Deputy Secretary of the Treasury of the United States and in future occasions that we can rely that this experience will cause you to give us the import of your response to the questions as well as the precise—

Mr. ALTMAN. Well, let me make two points.

First of all, Mr. Kanjorski, I assure you that there are a lot of lessons of this hearing experience which at least, professionally speaking, is by far the most difficult I have ever had. So those lessons are burned into me now and will remain so.

Second, I testified, I have had the privilege of testifying many times before the Congress. I always try to testify forthrightly and I think I always have, and until this point, no one, that I can recall, ever raised questions about whether I testified forthrightly. And I do not have a history of testifying in an overly narrow or obfuscating fashion.

Now, the exchanges in question consumed 10 minutes or less. I said last evening, I repeat here today, I didn't testify as well as I should. But as to the question of whether there was any intent to go to the Congress and withhold information or conceal information, the answer in the most heartfelt way, I assure you, is no.

The CHAIRMAN. The time of the gentleman has expired.

Mr. Knollenberg.

Mr. KNOLLENBERG. Thank you, Mr. Chairman.

I am going to yield my time to Mr. Lazio.

Mr. LAZIO. Thank you.

Mr. Altman, I want to give you an opportunity to comment on something because I want to be fair about it. You have been criticized indirectly or directly for a couple of days with respect to what I perceive to be inconsistencies or alterations of your testimony.

I am told that during an interview with the minority staff—I understand the majority was present also—that you said that the statement that Bill Roelle made that he had given you a briefing on the referral was false and you had just testified earlier, I thought, when we were discussing this, that you thought it was very possible that that might have happened, but that perhaps your memory was not precise.

I just want to give you an opportunity so that we can be fair about this to tell me which of those two versions is correct. Again, they say, I hear that you told the staff you had no such conversation with Roelle; that it was false; it would have been the first time you would have met Roelle and later when we were talking, you said it was very possible you might have had this discussion with Roelle where he briefed you on the criminal referral.

Would you just comment on that?

Mr. ALTMAN. Well, as you know, there were two referrals.

Mr. LAZIO. The first referral I am talking about.

Mr. ALTMAN. I don't believe that he did. That is my best recollection; don't believe it happened. It was 18 months ago.

Is it possible that it happened? Yes, but I do not believe that it did.

Mr. LAZIO. I just wanted to give you an opportunity to explain yourself on that.

I want to get into a little bit something that you had in your diary, and if I can, if I can share it with you so you have an opportunity to look at it. This was an entry that you made—looks like January 7, 1994—where you make reference to a meeting where you refer to Secretary Bentsen, who had been asked to come to the White House to speak to the President over Whitewater together with Reich, Riley, and Babbitt.

Can you tell me what the origin of that entry is? What your basis for that entry is?

Mr. ALTMAN. My best recollection is it was not Secretary Bentsen. I believe, but I'm not certain, that it was Mr. Steiner.

Mr. LAZIO. That Mr. Steiner has been asked to come to the White House?

Mr. ALTMAN. No, pardon me. Secretary Bentsen—no, I am sorry, the question is Secretary Bentsen—I thought you asked where I got the information?

Mr. LAZIO. You believe that Mr. Steiner was the basis for that entry?

Mr. ALTMAN. I am not certain. I think so.

Mr. LAZIO. Might it have been Secretary Bentsen himself.

Mr. ALTMAN. No. It wasn't.

Mr. LAZIO. No. You know that?

Mr. ALTMAN. I think I would remember if it had been.

Mr. LAZIO. Why would you remember that it was Secretary Bentsen or was not Secretary Bentsen, but believe it could have been Steiner? What was it that would be memorable about Secretary Bentsen telling you?

Mr. ALTMAN. Most things Secretary Bentsen says to me, I remember.

Mr. LAZIO. Do you know if that meeting took place?

Mr. ALTMAN. As you can see from the diary entry, the scrapbook entry, it did not take place.

Mr. LAZIO. Do you know what the reason for that was?

Mr. ALTMAN. Again, I wasn't a participant in the conversations. My impression at the time was that Christine Varney suggested to Secretary Bentsen he not do it and he didn't do it.

Mr. LAZIO. But, actually, the meeting might have went forward? You don't know the meeting didn't go forward? You are just basing

your observation that the Secretary did not attend the meeting on your notes here; is that correct?

Mr. ALTMAN. Well, Secretary Bentsen did not attend the meeting if there was a meeting.

Mr. LAZIO. And the reason for that was that Christine Varney said that he should not go there because of the potential conflict that that might present?

Mr. ALTMAN. First of all, Secretary Bentsen may well have known that and judged that well before he was advised by Ms. Varney. I have no knowledge he was otherwise going to go. So I am not sure that it was her point of view that influenced him.

However, the bottom line is that he did not go and I gather it was her point of view that it wouldn't be a good thing to go because he's the Chairman of the RTC, of the Thrift Depositor Oversight Board and perhaps someone could infer that there was some—

Mr. LAZIO. So someone's ethical antenna was up there in a manner that was not present possibly at RTC and Treasury?

The CHAIRMAN. The time of the gentleman has once again expired.

Mrs. Maloney.

Mrs. MALONEY. Thank you, Mr. Chairman.

Mr. Altman, you have more stamina than I do. I fell asleep at 12 o'clock last night and the Senator was saying this is the last round and I understand it went on to 2 o'clock in the morning.

I believe it is fair to say that the first days of the Whitewater hearings have so far been a washout. Three investigations, two independent investigative bodies—including a Republican prosecutor—have uncovered nothing illegal or unethical up to this point.

I suppose, Mr. Chairman, we could appoint a fifth independent investigative body headed by a Republican, nonpartisan, or a sixth independent investigative unit to continue reviewing the prior testimony from the prior three investigations, but until we come up with some real body of evidence that reveals serious wrongdoing, Whitewater will be remembered as wastewater.

Since this is a very media-driven inquiry so far, I would like to refer to an article that was in today's *Washington Post*. It was entitled "Omission Triggered White House Damage Control" and the article indicates that the first alarm bells about your Senate testimony came from the White House staff.

When were you informed that your testimony needed to be corrected? Who informed you? Why did they inform you?

Mr. ALTMAN. About a week after the testimony, Mr. Podesta of the White House staff called me and he said two things, as I remember it.

First, what about the other two meetings? And I told him—and he has affirmed this under oath—I never heard of them. I never had heard of them. When Senator Bond asked me a question about prior contacts, I answered truthfully and I believe the discussion we had last night in the other body proves convincingly that I testified honestly on that. So he said what about the other meetings and I said I never heard of them.

The second thing, as I recalled after reading, I guess, Mr. Cutler's chronology, was that he apparently said and what about recusal. And my answer was, as I believe Mr. Podesta has said, my

answer was—I thought my answer, that is on February 24—I thought my answer was responsive to the question.

Now, I am pleased with that response because maybe I didn't testify well, but coming back to my colloquy with Mr. Kanjorski, that was what was in my mind at the time. I thought a week later that my answer to the question I was asked by Senator Gramm was responsive to the question.

I have said, and I will say again, my testimony was imperfect. It wasn't as good as it should have been, but it wasn't reasons of intent, because a week later in a private conversation, I said to Mr. Podesta, well, I thought I answered the question properly, and that was my judgment.

So that was the call which then on the first matter, the fall meetings, caused me to immediately amend the record once I had checked and found out they indeed had occurred. And I sent Senator Riegle that very day a letter amending the record to indicate that I had just learned of them and that they related to press inquiries and I think that was the right thing to do.

On the second, I did not amend the record because my judgment was I had responded properly to the question.

Mrs. MALONEY. Question: If Mr. Podesta affirmed in his testimony that he agrees you did not remember the two meetings, and you do not remember, it wasn't like they jogged your memory and you said "Oh, yes. Now I remember."

You really didn't remember, and to this day, don't remember them, why did you amend your testimony? I think many people would have said "I don't remember it" and——

Mr. ALTMAN. Well, I thought that was the right thing to do.

Mrs. MALONEY. To amend the testimony?

Mr. ALTMAN. I thought that was the right thing to do.

My answer to Senator Bond specifically had been "not to my knowledge." That was as truthful a response as a human being can give.

But when I learned of the meetings, I thought I should alert the committee because the committee would want to know and I had a responsibility to advise the committee. I have taken a lot of criticism for amending the record and if I could testify again, I would have provided additional information because now I realized that some people think my testimony was too narrow.

Mrs. MALONEY. But you could not have provided additional information if you did not know about it?

Mr. ALTMAN. Well, in that case, I couldn't have. There has been a great deal of controversy over these contacts, the additional contacts. I said to Senator Gramm, "I have had one substantive contact and I want to tell you about it." Substantive meant on the RTC investigation of Madison.

I then amended the record later and bent over backward to explain that I had additional contacts. They didn't have anything to do with the RTC investigation of Madison. The day before my testimony, I called Mr. Ickes. I said "Tomorrow I am going to announce I am stepping down as RTC Chairman on March 30." What does that have to do with the RTC investigation of Madison?

I ran into Nussbaum roughly the day before and he said to me, "We are going to soon send up our nomination to the Senate for

permanent RTC Chairperson." What does that have to do with the RTC investigation of Madison?

I have gotten a lot of criticism, and as I said to Mr. Kanjorski, I accept that and try to learn from it, but on all that criticism, you didn't tell it straight. I interpreted the question to mean about the investigation. I answered the question about the investigation. The additional contacts don't relate to the investigation. And I submit that that was a reasonable answer under the circumstance.

The CHAIRMAN. Time of the gentlelady has expired.

Mr. Grams.

Mr. LAZIO. Mr. Chairman, isn't that—

The CHAIRMAN. Oh, Mr. Lazio.

Mr. LAZIO. Thank you, Mr. Chairman.

I just want to say that I was struck by your loyalty to the Secretary by saying that anything he might mention to you that you would recall and the distinction between that and the possibility that you might not recall or the fact that you do not recall a briefing by Mr. Roelle, where the President of the United States, whom you obviously have invested quite a bit in, might be or was a witness in a criminal referral.

I am wondering—because I find it somewhat puzzling—that you say you would absolutely recall one but might not have a good recollection, or do not have a good recollection of the other. If you could reconcile that for me.

Mr. ALTMAN. I have answered you honestly. I don't recollect the other. I happen to—I have a very special relationship with Lloyd Bentsen.

Let me be very frank with you; Bill Roelle and I are ordinary guys. Lloyd Bentsen is not an ordinary guy. I have had the privilege of working with a lot of talented people, publicly and privately, and I have been grateful for all those privileges, but there is only one Lloyd Bentsen.

Mr. LAZIO. I will yield the remainder of my time to Mr. King.

Mr. KING. Thank you, Mr. Lazio.

Good afternoon, Mr. Altman. I also commend you on your stamina and your endurance.

I would like to ask you a line of questioning, and since you are male, I assume I will be able to do it without offending members of this committee who are worried about being politically sensitive or politically correct.

I would like to address myself to certain discrepancies between your testimony and other testimony, and not even dwelling on the fact whether or not it is particularly salient or what the overall meaning of it is, but why these inaccuracies are there.

I would like to go back to the January 11 diary entries that you made. I believe you have a copy of that, don't you?

Mr. ALTMAN. Yes, I do.

Mr. KING. At the top where it says "On Whitewater, Maggie told me HRC was 'paralyzed.'".

You have paralyzed in quotes. Let me ask you what the quotes mean?

Mr. ALTMAN. I don't know what they mean. That was the impression I got from the aside that she gave me.

Mr. KING. I guess what I was getting at is it is not on a regular basis you make diary entries. I believe you have testified you do it when you think it is important.

Mr. ALTMAN. It is episodic.

Mr. KING. It is episodic.

Could the fact that it was in quotes indicate that that is exactly what she said to you?

Mr. ALTMAN. I don't know whether it does or it doesn't.

Mr. KING. So there is no particular pattern to your diaries when there is a quote or not a quote?

Mr. ALTMAN. No, no.

Mr. KING. Now, Ms. Williams has testified under oath, as you know, that she never held these conversations with you at all. She never had this conversation.

Do you have any idea at this time what meeting you were at or what the occasion was when you believe she told you these things?

Mr. ALTMAN. I have said before, my best recollection is that it was at a health care meeting because that is when I usually have seen Ms. Williams, so it wasn't a meeting about this, and it might have been an aside during a meeting on health care.

Mr. KING. Have you gone back to check your records to see whether or not you were at a meeting with Ms. Williams on January 11?

Mr. ALTMAN. No, I have not.

Mr. KING. You have not checked that at all?

Mr. ALTMAN. No, I have not. It doesn't make any difference.

Mr. KING. Well, whether it does or not, that is for others to decide and not for you and me. But since she is denying she had this conversation with you, wouldn't it have been important on your part to go back and at least see if you had a meeting with her on that day? Wouldn't that have been one way of establishing whether or not she is correct or you are correct?

Mr. ALTMAN. Congressman, people have different recollections. There is nothing unusual about that.

Mr. KING. I know that, but one way to establish whose recollection is correct is to see whether or not you had a meeting with her on that day. Obviously, if you didn't—

Mr. ALTMAN. First of all—

Mr. KING. I am sorry.

Mr. ALTMAN. First of all, this is my own handwriting, but I can't tell if this is January 4 or January 11.

Mr. KING. Did you check for January 4?

Mr. ALTMAN. Second of all, there wouldn't be, obviously, I don't believe on my schedule, a separate meeting with Maggie Williams. I'm not sure I have ever had one, so my schedule is not going to show what meeting I might have encountered Maggie Williams at because her name will not be on it.

Mr. KING. If you saw a meeting on health care, wouldn't that jog your memory?

Mr. ALTMAN. I attend those every single day. They have been going on for months. There is today on my schedule a daily meeting on health care and there has been for probably 3 or 4 months.

Mr. KING. So you are saying there is no way you could find out whether or not you had any encounter with Maggie Williams on

January 4 or January 11? Nowhere in your records, no one on your staff could establish whether or not you had that meeting?

Mr. ALTMAN. First of all, I'm quite sure it wouldn't have been a meeting separately with Ms. Williams. That is not the case.

Mr. KING. Or a meeting she was at?

Mr. ALTMAN. As to whether my records could have established what meeting it might have been, I don't think so. I don't know how they would.

The CHAIRMAN. The time of the gentleman has expired.

Senor Gutierrez.

Mr. GUTIERREZ. Thank you very much, Mr. Chairman.

Thank you, Mr. Altman, for being with us today. I stated during the first 20 hours of these hearings that I believe many of the accusations made regarding Whitewater have not been motivated by the best welfare of our Nation, but by narrow, partisan, political goals.

Despite the fact that Republican Special Counsel Robert Fiske's and the nonpartisan Office of Government Ethics have both ruled after investigation—and I would like to emphasize this, Mr. Chairman, far more thorough and complete than we could ever hope to have here—that there were absolutely no ethical or legal standards violated, many continue to make charges that range from completely unsubstantiated to merely political.

I have said this before and I am going to continue to say it again here today because I believe this point is critical. All of us on this committee are well aware that the American people have asked Congress to put an end to partisan bickering and devote ourselves to working to solve the problems and challenges that they face in their everyday lives.

Instead, we are into day 3 and hour 30 of an inquiry that is based more on politics than protecting the American people. I think that that is a shame. The shameful lines of inquiry, however, do not replace the fact that this committee has a critical oversight responsibility, but again I make one last plea to my colleagues to be fair, to follow the distinguished Mr. Leach's advice: "It is key that we make a distinction between misjudgment and illegal or unethical activities."

Having said this, I would like to turn to the specifics of the allegations made against you, Mr. Altman.

The allegation that troubles me greatly is that—and I would like to underscore it is an allegation—you have not been honest with the U.S. Congress. You said in your statement that your integrity has never been questioned. You said that it is important to you.

It is important to me as well. I believe, and I am sure you will agree, that not being honest with the U.S. Congress is a serious breach of integrity. Unfortunately, some people who lie to the U.S. Congress go on to become celebrated candidates for the U.S. Senate. I think that is also shameful. So I would like to spend a moment on this charge.

Let me ask you this: In many ways, your testimony before the Senate on February 24 regarding your knowledge of meetings regarding the criminal referrals seems misleading. Certainly, Mr. Steiner's diary, as well as Ms. Hanson's testimony, contradicts part of your testimony.

Again, for the record, how do you reconcile your February 24 testimony with that of Mr. Steiner and Ms. Hanson?

Mr. ALTMAN. First of all, I know we don't have time to do it now or perhaps we don't, although I would be happy to, but I was questioned last night at great length about the fall meeting and the referral. I think if you wanted to take a moment and watch the tape, I think you would find that the evidence that I presented to the effect that my answer to Senator Bond on February 24 was 100 percent accurate is convincing evidence. And I would invite you to watch that tape and look at the answers I made.

The answer I gave him on that question was true, T-R-U-E. I did not lie to the U.S. Congress under any circumstance and I don't—maybe other people have done that, but I have not done that.

Mr. GUTIERREZ. Well, as you look back, both on your actions and on your earlier Senate testimony, do you have any doubts of the legality of any of the actions that you performed?

Mr. ALTMAN. Mr. Gutierrez, there was an independent investigation by an independent counsel, Mr. Fiske. He is a Republican. He conducted a very thorough inquiry. It included a review of the testimony. We know what his conclusions are on the legalities. He took testimony under oath in a grand jury context from everybody who is a participant. He reached a conclusion on the legalities.

Mr. GUTIERREZ. Well, I think that that is the real question here, legality, and you know I share some of my colleagues' belief that Mr. Altman may be guilty of some things. However, I believe that guilt lies certainly not in the area of illegality.

I would just like to share with my colleagues a question. How many of my colleagues can say that they have never been guilty—my colleagues here on this committee and my colleagues in the Congress and in the Senate—of poor judgment? If all of us on this committee who have exercised poor judgment at any time in our public careers had to leave this room right now, I think that Mr. Altman would be awfully lonely here today.

So what are we left with? And I really mean that. If any of us were to go back and check the editorial opinions of our hometown newspapers and articles that have been written about us during our careers, our political-public life careers, I think there would be many people who would question almost every Member of Congress' judgment at some point or another.

So what are we left with if all the questions and the detailed interrogation that is out there reveals there just isn't any heart of darkness here. There is mismanagement, and Mr. Altman has acknowledged this, Mr. Chairman, some bad decisions, and I just hope we can keep that in perspective as we complete our questioning.

Thank you, Mr. Chairman, and thank you, Mr. Altman.

Mr. ALTMAN. Thank you.

The CHAIRMAN. Mr. Grams.

Mr. GRAMS. Thank you very much, Mr. Chairman; and I have a brief statement or observation before I yield my time to Mr. King. Mr. Altman, I believe I was one of the first members of this committee to call for your resignation, and given your record of altered testimony, half-truths, and questionable lapses of recollection, I believe I was correct in taking that action.

I do sympathize with you because I believe you were put in a difficult situation by your friend, Bill Clinton, but your reputation and credibility with this committee and that of the Senate is damaged; and I think that the best course would be for you to resign your position as Deputy Secretary of Treasury. End of statement.

Mr. ALTMAN. As I said earlier, I don't intend to do that.

Mr. KING. If you want to respond further on my time, you can.

Mr. ALTMAN. That is fine.

Mr. KING. I want to go back—not to dwell on this, but on the January 4 and 11 meeting, you are giving testimony, under oath, that you believe this diary is accurate, or you thought it was accurate at the time you wrote.

Ms. Williams denied discussing it at all, and she says that under oath. And yet you have made no effort to determine whether you actually met with her on those days. If you had met with her, would it have been at the White House?

Mr. ALTMAN. Probably, but not necessarily.

Mr. KING. Have you asked the White House to show you their logs to see if you were with her at a meeting on those days?

Mr. ALTMAN. Mr. King, I have my own schedule and the history of my own schedule.

Mr. KING. But that schedule didn't indicate whether you had a meeting with her. I think it would be important to set the record straight to determine whether or not you were at a meeting with her on either of those days.

Mr. ALTMAN. I just don't know how that could be ascertained.

Mr. KING. If you asked the White House for their logs, wouldn't they have a record?

Mr. ALTMAN. I don't think so. They don't have a record of every attendee of every health care meeting. I could be wrong, but I sure don't think they keep a record.

Mr. KING. I would ask that you make the effort, because I think it is important for us to know whose recollection is accurate and whose isn't.

Also, further on in this page, you do make the reference, which has also been discussed before, that she gave the strong inference that the White House was trying to negotiate the scope of the independent counsel.

And I believe earlier today, and I know last evening when you were questioned on this by Senator Hatch, you said that Mr. Cutler proved that the White House was not trying to negotiate the scope.

Mr. ALTMAN. That's not what I said.

Mr. Cutler's chronology spoke directly to this question; and, of course, he was here before this committee. And he said he had looked into this and he had concluded that there were no such negotiations.

Mr. KING. OK. Actually, and I am going to show—on page 4 of Mr. Cutler's chronology—and I don't think it is entirely complete as to what Mr. Cutler said—I would like to read it to you, the second-from-the-last sentence in the final paragraph.

It says, Mr. Altman confirmed to us that neither Ms. Williams nor anyone else at the White House ever told him or inquired that the White House was trying to negotiate such limits.

So if I may, then I will give you the opportunity to answer, your diary is saying that you had that inference. Then you are telling Mr. Cutler that, in fact, no one ever told you that; and based on that, Mr. Cutler is saying your diary is inaccurate.

Mr. ALTMAN. No, sir, I am reading the same page you are. The next sentence says, we found no such evidence. No evidence of any such efforts. We found no evidence of any such efforts. That's what I was referring to.

Mr. KING. That is a little different. And I will tell you why. He didn't disprove it. What you are saying in your diary entry and Ms. Williams' denial, he can't find anything to justify either one.

You told him that this was not said to you; based on that, he is coming to a conclusion.

Mr. ALTMAN. That is not how I read it. Maybe I read it wrong. He said, we found no evidence of any such efforts. That doesn't mean that he relied on only what I said or Ms. Williams said. I think that one could ascertain through depositions whether indeed the White House was trying to negotiate this. I think Mr. Cutler said that he found no evidence of efforts to negotiate this.

Mr. KING. Ms. Williams told you that it would indicate her state of mind or perhaps a message that she was trying to give you from the White House; so whether or not the efforts were being made, the fact that she was telling that as a representative of the First Lady, to me, would be very significant. And all Mr. Cutler is saying is that you now are denying, in fact, what you said in your diary is true.

Mr. ALTMAN. Mr. King, he says we found no evidence of any such efforts. That's not limited, I don't believe to—

Mr. KING. Well, there might not be any evidence. It may be just the fact that the Chief of Staff of the First Lady came to tell you that—to let you know what the First Lady wanted you to do. Whether or not they were making any efforts at all is irrelevant. The important thing is, what did Maggie Williams tell you? What did she want you to think? I think it is important.

Mr. ALTMAN. I don't think that that has a grain of truth in it. I don't think there is a grain of truth in the notion that she would be somehow trying to send me a furtive, indirect message to this effect.

Mr. KING. I just find it incredible that you make such a specific reference and now you deny that it happened.

Mr. ALTMAN. Wait a minute, I am not denying that it happened. You asked me whether I think this happened. I am not denying that it happened.

I am just addressing myself to two points. One is what Mr. Cutler found; and second, this last point you made about whether there was some message, some subliminal message being sent to me.

The CHAIRMAN. The time of the gentleman has expired.

Ms. Roybal-Allard.

Ms. ROYBAL-ALLARD. Thank you, Mr. Chairman.

Mr. Altman, first of all, thank you for voluntarily coming here to testify before this committee. You have answered most of the questions and concerns that I have, so I am not going to repeat those questions. However, I don't want you to leave this hearing having

been misled by this committee as a result of some of the statements that have been made by my colleagues on the other side of the aisle as to this committee's opportunity to ask questions on the full scope of the Whitewater issue.

By way of background, on March 22, 1994, the House passed House Resolution 394 by 404 to 15 votes. The resolution which passed, with nearly unanimous Republican support, states that the Whitewater hearings shall be structured and sequenced in such a manner that in the judgment of the leaders, they do not interfere with Mr. Fiske's criminal investigation.

Further, Mr. Michel and Mr. Gingrich, both Republicans, negotiated the House bipartisan leadership agreement that defines the scope of these hearings as limited to matters related to the Washington phase of the Fiske investigation.

So, Mr. Altman, in spite of what you may be hearing from some of the members of this committee, the committee will, in fact, have ample opportunity to hold hearings and to ask questions on the entire Whitewater issue as soon as Special Counsel Fiske notifies this committee that his investigation is complete, and that the committee's proceedings will not in any way tarnish or interfere with his criminal investigation, as was the case with Iran-Contra where persons found guilty of crimes are free today.

I am sure this is information that you are not excited to hear about because it means that there will be additional hearings. You will be called, potentially, before this committee to answer questions with regard to the entire scope of the Whitewater hearings. I just wanted to make that point, because I didn't want you to leave misunderstanding the statements that have been made here today.

I yield back the balance of my time.

The CHAIRMAN. The gentlelady yields back the balance of her time.

Mr. Bachus.

Mr. BACHUS OF ALABAMA. Mr. Chairman, I yield to Mr. King.

Mr. KING. In our final colloquy there, I asked you if you were denying what was in the diary about the inference of Whitewater, and you said you were not denying it, I believe. I believe that was your testimony. And yet—

Mr. ALTMAN. No, just a moment. I am not denying this. You see the word "inference"?

Mr. KING. Right.

Mr. ALTMAN. I was asked, did anybody actually tell you, Mr. Altman, straight up that the White House was negotiating that; and my answer was, no, I drew an inference.

Mr. KING. Let me refer to Mr. Cutler's report. Mr. Altman confirmed to us that neither Ms. Williams nor anyone in the White House ever told him or implied.

Perhaps there is a difference in your mind between "inference" and "implication"; I don't see it.

Mr. ALTMAN. The question I remember being asked by Mr. Cutler's representatives was whether—as I just said, whether anybody directly told me this. This is what I recall being asked, and as you can see, it was an inference. Nobody told me directly that indeed those negotiations were going on.

Mr. KING. So to that extent, Mr. Cutler's report is inaccurate? It misquotes you?

Mr. ALTMAN. I think you would have to ask Mr. Cutler. I just said that is the question I recall being asked. I didn't write this report.

Mr. KING. So your recollection is based upon your recollection, the report is inaccurate?

One final——

Mr. ALTMAN. Let me just say, Mr. King, perhaps people are drawing a difference; one could argue that there is a difference between "imply" and "inferred." I don't know. Perhaps that is what Mr. Cutler did.

Mr. KING. In New York, I think we call it being a little too cute.

Mr. ALTMAN. I am not saying that I did it, Mr. King.

Mr. KING. One final question along these lines.

You said that when you came to Ms. Williams with the envelope, which I believe was sealed, marked "For Your Eyes Only and Personal and Confidential," you said you explained to her what was in the envelope.

Her testimony the other night clearly was that, to this day, she does not know what was in the envelope. What did you tell her was in the envelope?

Mr. ALTMAN. No, I went to Ms. Williams to apologize. I think I was right to do that. She deserved an apology, and I regret causing her any embarrassment or anguish about this.

I explained to her in some general form that there were going to be some excerpts from my scrapbook that were going to refer to her. And I just apologized for them.

Mr. KING. I wrote down the quote, you, quote, "explained to her what was in it," so when you put the envelope on her desk, did you tell her what the contents of the envelope were?

Mr. ALTMAN. Mr. King, I don't recall the precise conversation. I explained that there were some excerpts from the scrapbook, and I may have said they are going to refer to what Mrs. Clinton was thinking and some asides, Maggie, that you may have made to me. Something to that effect.

Mr. KING. When you gave her the envelope, did you lead her to believe that in the envelope were excerpts from the scrapbook, or did you drop the envelope on her desk?

Mr. ALTMAN. I may have.

Mr. KING. But earlier today you said you explained to her what was in it, in the envelope.

Mr. ALTMAN. I don't understand the question.

Mr. KING. This morning you said you explained to Maggie Williams what was in the envelope. And now you appear to be saying that you didn't tell her what was in the envelope, or you don't know that you did.

Mr. ALTMAN. I am sorry, those statements are consistent; I explained to Maggie in general what was there.

Mr. KING. Did you tell her the contents?

Mr. ALTMAN. If you are asking me whether I read her the excerpts——

Mr. KING. No, did you tell her, in this envelope are contents of my diary?

Mr. ALTMAN. I think so, sure.

Mr. KING. She denies that. That is what I wanted on the record. She denies that you told her anything.

Mr. ALTMAN. Let me just say, I don't recall that she opened it and read it.

Mr. KING. She didn't. She destroyed it. And that's why I think it is important to know whether or not you told her what was in the envelope before she originally destroyed it.

Mr. ALTMAN. I didn't read it to her. And I didn't explain to her line by line.

Mr. KING. Did you say this is a page from the diary?

Mr. ALTMAN. My best recollection—my best recollection is that I said, generally speaking, there are some references to what Mrs. Clinton was thinking that you gave me in some sort of aside; and that is what I said.

Mr. KING. And did you tell her that was what was in the envelope? Mr. Cutler said it could have been a *Playboy*. Do you ordinarily go to the White House and drop an envelope on someone's desk and not tell them what's in it? Do you think that considering what was going on all around you and all around her and everyone in the administration that you would have told her what was in the envelope other than drop an envelope on someone's desk?

Mr. ALTMAN. Mr. King, I have just told you that I explained in general what was in it. I don't know whether I said these are the precise excerpts.

Mr. KING. In general. It is only one page. I don't know how more specific you can be.

The CHAIRMAN. The time of the gentleman has expired.

Mr. DEUTSCH. Thank you, Mr. Chairman.

Thank you, Mr. Altman. I have one question on a specific thing, and then a series of questions on another matter.

It was reported that a memo was found in Ms. Hanson's office safe with practice answers to anticipated questions. In this memo, the answer to a question whether she had informed you or Secretary Bentsen about the September 29 meeting was no. Is this consistent with your recollection of events, and how do you feel about this apparent contradiction in the statements by Ms. Hanson?

Mr. ALTMAN. Well, there was such a memorandum and it did say no. Ms. Hanson has herself said that later—in other words, after she wrote that—her memory was improved and she recalled those meetings. But she herself didn't recall them. And I believe Ms. Hanson. I know her well; she is straight up. I am sure she didn't recall them at that time.

But the point is, I have taken a lot of heat for my testimony in this one particular area; and Mr. Gutierrez and Mr. Kanjorski have left, but there is a memo that you just referred to which Ms. Hanson wrote which says, We were asked to go to the White House by Mr. Altman, and it says no. Now, I believe she did recall that differently later. I don't challenge that.

Jean is an honest person, but it suggests that when I answered Senator Bond's question the way I did, I answered it truthfully.

Mr. DEUTSCH. Let me shift over to a series of questions regarding the whole issue of the White House knowing about the criminal re-

ferral. It is something that I have focused on throughout this series of hearings. This really wasn't unusual; in fact, Lloyd Cutler's article in the *Washington Post* today explains that for over 40 years, the White House has received "heads up" notices from the Attorney General and I have referred to a statement by former Attorney General Thornburgh specifically talking about the appropriateness of letting the subject of criminal referrals know about those referrals when the press leaks have occurred.

And I guess I am trying to get a sense specifically of when the RTC began investigating the civil claims against Madison Guaranty, and during this time period was the RTC interacting with the White House, but also interacting with Members of Congress regarding the investigation.

Could you respond to that in terms of what was happening at the timeframe?

Mr. ALTMAN. Well, prior to the February 2 meeting which I had, there were at least seven contacts between congressional staff and RTC staff on the same subject.

In addition, I received prior to the February 2 meeting, several letters from Members of Congress on the same subject, letters wanting to know what the statute of limitations procedures were and what the RTC planned to do procedurally. I have one from 41 Republican Senators, I have one from Senator D'Amato, to name two; and I was in the process, of course, of responding to those.

So the information which we provided to the White House on February 2 about the RTC procedures was already in the hands of a number of Members of Congress and their staffs; and by the way, it was also already in the hands of the media.

Mr. DEUTSCH. Specifically, was Senator D'Amato at that time asking the RTC to seek tolling agreements with the Clintons?

Mr. ALTMAN. Yes.

Mr. DEUTSCH. And that is actually before the Clintons had that information; is that correct?

Mr. ALTMAN. The information is public information. There was no nonpublic information provided there. It was already in the public domain.

Mr. DEUTSCH. You mean information regarding the civil claims against Madison Guaranty?

Mr. ALTMAN. Yes, sir.

Mr. DEUTSCH. Who provided the briefings to Senator D'Amato's staff? Do you recall that?

Mr. ALTMAN. I am advised that RTC staff did.

Mr. DEUTSCH. Do you know who specifically in the RTC staff?

Mr. ALTMAN. I don't, sitting here today, no.

Actually, I shouldn't say that.

Mr. DEUTSCH. Would it have been Jean Hanson?

Mr. ALTMAN. No, RTC staff.

I know that Mr. Ryan was asked to and did go to Senator D'Amato's office to have a discussion with his staff at one point before the February 2 meeting.

Mr. DEUTSCH. And Senator D'Amato's specific concerns about the statute of limitations regarding the Madison Guaranty were specifically discussed with RTC personnel as well?

Mr. ALTMAN. Well, Senator D'Amato's letter to me insisted as interim CEO of the RTC that I get a tolling agreement from the various parties, including the President, in order to extend the statute of limitations deadline. That is what he was insisting.

The CHAIRMAN. The time of the gentleman has expired.

Mr. Huffington.

Mr. HUFFINGTON. Mr. Altman, when Maggie Williams was here, I too asked her the question about the diary entry that is either January 4 or January 11, and do you still have that diary by any chance, the original diary?

Mr. ALTMAN. You mean the piece of paper? You mean the very original one?

Mr. HUFFINGTON. Yes. The only reason I ask is, if you had it, you could go back and look sequentially and see if it were the 4th or the 11th. I, just for the record, would like to know what it was. But at any rate, I asked her about the quote, "Maggie told me that H.R.C. was, quote, 'paralyzed by this'"; and asked her if she had said that, and she said no.

Now, it is possible she didn't use the word "paralyzed," but my guess is you would not have put it in quotes if you didn't think she used it. She may not have, but clearly, you had a conversation or you would not have been writing a fictitious entry in your diary about Maggie Williams. And I said that either you are telling the truth, Ms. Williams, who was here; or Mr. Altman, obviously you are telling the truth, but not both of you. And that, I said to her, is a problem, if one of you is not telling the truth.

The fact is, you wrote the entry in your diary; I believe that's what you thought you heard. She may or may not have used those exact words, but she used some words. And my concern is that the big picture here is Whitewater itself, which we're not discussing what happened with Madison Guaranty and the funds that went into Whitewater, did they go into then Governor Clinton's campaign? We are not discussing that.

We came across something where there is a divergent view, and the truth is, especially where both of you have stood up to tell the truth; and at some point, I would hope by the time we finalize, we will find out who told the truth. I suspect since you wrote down the diary entry, yes, you had the conversation.

My concern is, why isn't Ms. Williams agreeing that she said something? And I make that more as a statement than as a question.

Mr. ALTMAN. Mr. Huffington, it is now August 3; and this is January 4 or January 11. Now, this conversation, if it happened, might have taken 10 seconds. And the notion that someone can't recall a 10-second conversation, or has a differing recollection of a 10-second conversation 6 months ago, I don't think is particularly odd. If people asked you or me can we remember every 10-second conversation of 2 weeks ago, we're not going to remember it.

Mr. HUFFINGTON. No, but we all know that there is no question in the process—obviously, Mrs. Clinton's public exposure and her schedule has changed dramatically over a couple of events; one was Whitewater and the other was the cattle futures market discussion. That was a big deal.

This wasn't just a conversation. This was a major conversation with a real problem. When you write down that she says that—you said that she said H.R.C. doesn't want, quote-unquote, in brackets, "the counsel poking into 20 years of public life in Arkansas," that is a major deal.

Mr. ALTMAN. I respectfully disagree, Mr. Huffington.

Mr. HUFFINGTON. Twenty years of life in Arkansas is not something that you obviously do want discussed.

Mr. ALTMAN. I disagree. I don't know anybody on the face of this planet who would want someone poking around 20 years.

Mr. HUFFINGTON. When you run for office, that is what happens. But this is about the differences between your statement and Ms. Williams' statements.

It looks to me as if she possibly might be trying to cover up for the First Lady; that is my own point. She can't say categorically she doesn't remember saying it.

And I will give the balance of my time to Mr. Leach.

Mr. LEACH. Let me begin a line of questioning, Mr. Altman. The letter I referenced earlier and placed in the record is a letter from you to the committee asking that the statute of limitations not be extended. It was written in May 1993.

Two months earlier, six weeks or so earlier, under the sworn testimony of Mr. Roelle, he briefed you about the 1992 criminal referral; and then according to the records we have been provided, you sent a couple of newspaper articles to the White House. That is of no great significance other than, clearly, Whitewater was on your mind then, whether you remember it now.

But what is of relevance to this hearing is that this may be an example of a Presidential appointee doing something on behalf of a President, given the fact that all professionals opposed your position on this. They wanted the statute of limitations extended because it gave the government greater capacity to get more return for its buck by being able to go after the people that lost the public money in the S&L issue.

Do you think that you were operating on the President's behalf, and did you consult with anyone in the White House or representatives of the President or anyone in the Justice Department on this?

Mr. ALTMAN. Mr. Leach, I have long had a lot of respect for you, and I remember interacting with you when I was here last under President Carter and I know you to be a person of probity; but in this respect, the discussions I recall—and they were considerable ones—were in the Treasury on the whole issue of the statute of limitations; and there were many people, Mr. Levy and others.

If you would like, you can get them up here and you can ask them whether at any time in those internal discussions any case, the word "Madison," any imaginable, indirect, remote reference to that was made; and the answer is no. There is no connection between the two whatsoever.

And as to having Whitewater on my mind, that is false also. I don't think I spent 5 seconds between arriving in office—or maybe 25 seconds—arriving in office and this May 3 letter, thinking at all about that.

Mr. LEACH. But you had been informed of the 1992 criminal referral.

The CHAIRMAN. Mr. Barrett.

Mr. ALTMAN. No, I don't believe that I had been.

Mr. BARRETT. I would like to stay on the statute of limitations issue and also stay on the letter that was referred to by Mr. Leach.

I think it was interesting that Madison Guaranty was closed on February 28, 1989 under the law at that time. The statute of limitations was 3 years. So that statute of limitations expired on February 28, 1992.

Now, that was obviously before President Clinton took office. President Bush was President at that time. His administration, as far as I know, made no effort to extend this statute of limitations. So we came into office, or President Clinton came into office roughly 11 months after the civil statute of limitations had run on Madison Guaranty.

But following that was that RTC Completion Act that was introduced in 1993, and what I find ironic is that before we had this politically charged debate, we as a committee had an opportunity to voice our opinion on whether or not the statute of limitations should be extended.

And in that context, when there was no Democratic President who could be singled out, when there was no television cameras where people could try to frankly fry this administration, 14 out of 19 Republicans on this committee voted not to extend the statute of limitations.

Now, that was done, again, in the context that was not politically charged, presumably that was done for other reasons. But of the 19 Republicans on this committee, only Mr. Leach, Mrs. Roukema, Mr. Bereuter, Mr. Ridge, and Mr. Nussle voted to extend the statute of limitations.

Subsequent to that, Mr. Grams, because it was a very close vote, moved to reconsider that original vote and at that time only four of the five remained intact. Mr. Nussle then had, basically, voted to reconsider that.

So I find it very ironic that the ardor that we have seen over the last 3 days about the loss of funds to the government was not an issue when it was not the President of the United States that was involved here.

Now, frankly, Mr. Altman, that doesn't leave you off the hook, because I have the same concern that Mr. Leach had, referring to your letter of May 4. In that letter you state that the RTC has no need at this time either to revisit closed claims arising from institutions in which the limitations period has expired, or to extend the limitations period prospectively, as the RTC will continue to meet all upcoming deadlines.

My question to you is, on what basis was that decision made?

Mr. ALTMAN. One thing you might want to know is that there was a GAO report sometime in the same timeframe, GAO, which advised, in effect—I would have to go back and read it precisely—in effect, that a retroactive extension of the statute of limitations was not sensible in light of the caseload going forward. That is a GAO report, not the Clinton administration.

Mr. BARRETT. Did you rely on that GAO report?

Mr. ALTMAN. I can't recall the precise conversation. This is May 1993. I am just pointing out to you that it wasn't exactly a strange

notion to suggest that it wasn't necessary. But later in the congressional debate, as Mr. Frank pointed out, we said, fine——

Mr. BARRETT. And I agree with you and that I think was appropriate, and I think subsequent to that you obviously took the right action because you pushed to have this bill passed. What could have happened is that you could have let it languish and passed it after February 28, 1994.

In your mind, did the fact that Madison Guaranty's case would be opened play any role in your recommendation?

Mr. ALTMAN. No, sir.

Mr. BARRETT. Thank you.

I yield back the balance of my time—oh, one other point, Mr. Chairman, if I could. I just want—last week we had the memo that was from Mr. Eggleston to Mr. Harold Ickes. We had a lot of debate over that with respect to redactions. I think the record should show that that document now has been produced and there are no longer any redactions, and I think for the most part the redactions were appropriate, but I think on pages 5 to 7 there actually was information that was relevant to this inquiry.

The CHAIRMAN. If the gentleman will yield to me, I want the record to show that the letter that Mr. Leach asked to place on the record today, I placed in the record at the time we had the hearings on the extension of the statute of limitations from Mr. Altman. So it is in the record two times in the proceedings of this committee. And the issue at that time centered around the sort of retroactive features, as it was again this year.

So we will stand recessed for a few minutes to allow the members to record their vote, Mr. Altman, if you will indulge us just once more.

[Recess.]

The CHAIRMAN. The committee will come to order.

And the Chair recognizes Mr. Castle.

Mr. CASTLE. Thank you Mr. Chairman.

Mr. Altman, I am going to yield as much time as I can to Mr. Leach.

From an earlier witness we learned of thousands of criminal referrals from RTC to the Justice Department. I would assume in that thousands of individuals have been mentioned in some way or another in these referrals. They have gone from RTC, they have gone to the Justice Department. And I don't know of anybody else, other than this particular incidence, in which somebody has been alerted to their referral, either by RTC, Treasury, or by anybody else.

So, therefore, we are dealing with a circumstance in which the White House, with about 40 different individuals, makes 40 or 50 different contacts concerning the direct problems that we have here with respect to the criminal referral being made public from RTC to Treasury to the White House. And I have read the code of ethics and I have looked at it and I have read what has been stated by the attorneys involved, but the code of ethics says pursuant to Treasury, then pursuant to the rule of section 31 CFR, an employee should avoid any appearance of preferable treatment to any person. Those same codes of ethics are the same for Treasury, RTC, and the White House.

Frankly, I have a tremendous problem agreeing with Mr. Cutler or anybody else that the President is an exception to those rules. Clearly, in this case, I think there was a special preference in this circumstance.

I will yield to Mr. Leach. If he wants to use the time to respond to that, he may, or pursue his only time for questioning.

Mr. LEACH. I thank the gentleman for yielding.

Let me first make a correction for the record. The RTC under the Bush administration supported the extension of the statute of limitations, so one of the new policies that the Clinton administration put in was a reversal of that RTC position.

Second, let me just note the context of the development of the criminal referrals of September 1993. They weren't written in September 1993. They didn't just jump out. In the background were two things. One, there was a frustration level at the Kansas City RTC office about the 1992 referral that got reflected through the U.S. Government channels that nothing had happened to the 1992 referral.

Then, in the spring and summer of 1993, other people in the RTC, other parts of the RTC, Kansas City, as well as Washington, were alerted that there were more referrals in the making. In fact, one of our people we interviewed indicated from the RTC in Washington that he knew of the development of further referrals in May 1993.

Now, the reason I raise this is that in June 1993, again in a departure from previous organization, the Clinton administration put forth a policy in which it attempted to consolidate instructions and guidance on criminal referrals, putting the criminal investigations unit under the thumb increasingly of the legal division, the so-called PLS section of the RTC, which presumably meant a little closer ties to Washington.

So my first question, Mr. Altman, were you responsible for that change in policy? And were you also responsible for a realignment that has come more into effect where PLS dominance of the criminal investigations process appears to be strengthened, at least according to newspaper articles?

Mr. ALTMAN. Mr. Leach, is your question about the statute of limitations process or the——

Mr. LEACH. No, this particular question is precisely about the fact that a new organizational structure was put in place within the RTC to give the PLS division, which is more Washington-centered, greater control of the development of criminal referrals.

Mr. ALTMAN. I don't believe I was, no.

Mr. LEACH. As you know, by letter of December 9, 1993, I asked that you in your capacity as the Acting CEO of the RTC provide the minority in the Banking Committee certain documentation with regard to the failure of Madison. On December 3, you advised me that you would like to be cooperative but that you would have to coordinate with the Justice Department.

As you know, the government has taken a governmentwide policy about providing certain documents about Madison to the Congress. I would like to know, at any time did you discuss this legal issue with any representatives of the President, anyone in the White House? The answer to that is no, by your shaking of your head.

Mr. ALTMAN. No, sir, I didn't.

Mr. LEACH. Did you discuss this with anyone at the Justice Department?

Mr. ALTMAN. No, sir, I didn't.

Mr. LEACH. Did anyone at the RTC have any coordination with the White House that you know of, or the Treasury Department? That is, anyone at RTC or Treasury have any coordination with anyone at the White House on this issue?

Mr. ALTMAN. I don't know of any such coordination.

Mr. LEACH. How about with the Justice Department?

Mr. ALTMAN. I don't know the answer to your question. I don't know whether there was any contact with the Justice Department or whether there wasn't.

Mr. LEACH. Earlier on, I tried to ask a question. Did you, or did anyone in the RTC or Justice Department, discuss with anyone in the White House, the statute of limitations issue and whether it should be extended in the timeframe 1993?

Mr. ALTMAN. I don't believe so, sir, no. Let me say—I don't believe that I did. I don't believe that I did.

Mr. LEACH. OK. I thank the gentleman.

The CHAIRMAN. The time of the gentleman has expired.

Ms. Furse.

Ms. FURSE. Thank you, Mr. Chairman.

Mr. Chairman, I am a little amazed at the sort of vague questions that are being asked here. I guess I think every question should pass one test, which is, does the question give us real information on criminal or unethical conduct?

It was my understanding that this hearing was to determine if there had been criminal or unethical conduct.

Now, there have been hearings in this same committee where I have heard of criminal and unethical conduct—conduct toward the homeless, which I think is a crime in this country. Institutions, financial institutions that cheated people out of their homes, and I certainly know that all the members feel very strongly about this issue, but I have not seen, and did not in those hearings see the outrage that I have heard expressed here today.

And I would suggest that those are real crimes. Those are really unethical conduct.

But in order to get back to the facts, which is what I think this hearing should be on, I think the American people should remember that there were three independent investigations. And I understand that on Sunday, the Office of Government Ethics, which is not a partisan committee, came out with a finding that there were no violations of ethical standards.

Mr. Altman, who requested this report from the Office of Government Ethics? Do you know that?

Mr. ALTMAN. Secretary Bentsen.

Ms. FURSE. Did you, Mr. Altman, cooperate with the OGE, and its investigators?

Mr. ALTMAN. Surely.

Ms. FURSE. Were you at all surprised by the findings of the report of the Office of Government Ethics?

Mr. ALTMAN. No, ma'am.

Ms. FURSE. There is one thing that has come to my attention, which is a letter here which was addressed to you and Mr. Leach. I have heard a lot of questions about leaks, and how terrible that is. There is a witness coming before us, Mr. Chairman, who is—this letter comes from her attorneys.

And it says, quote, "I learned that several reporters were given copies of the minority staff's notes on Ms. Hanson's interview with the committee." And it goes on, "I believe the dissemination of the minority's notes is a breach of the committee's representations, its rules and appropriate ethical behavior."

Mr. Chairman, is it proper for me to inquire what the Republican caucus has done to find out about these leaks and whether we might have a report? I feel this is important because we have a witness coming before us who is referred to. Mr. Chairman, I wonder if you—

The CHAIRMAN. It is a proper question to raise. And you might ask, since it was addressed, you say, to Mr. Leach.

Ms. FURSE. And to you, Mr. Chairman.

Mr. LEACH. Will the gentlelady yield?

The CHAIRMAN. Excuse me, I believe the thrust—that is July 29.

Ms. FURSE. July 29.

The CHAIRMAN. And they were saying that, outright, that it was the minority staff? You might ask Mr. Leach if he wishes to yield.

Mr. LEACH. I would be delighted to yield and help Ms. Furse.

The Chairman lifted all confidentiality restraints at the previous hearing. Beyond that, we have conducted a minority investigation because it is my view that even though the confidentiality constraints were lifted, the particular kind of document that was taken, which was apparently a booklet of interviews with potential witnesses, was of all things, the kind of sensitive material that should not have been released.

It is the preliminary judgment of the minority staff that the booklet was left on the dais and no one knows what happened to it after the last meeting. At any regard, from a legal perspective, it is open for public review and the confidentiality was lifted.

But from a personal perspective, I have raised this in my caucus and expressed my strong chagrin that this particular kind of document was not protected by the minority.

And I would go further than that. I think the minority should accept full responsibility for that fact.

And I think it is very appropriate that the gentlelady raise the issue. And I, personally, in reading the letter of Mr. Pitts, felt that he had a fair point. And I would also say with regard to the attorney, Mr. Pitts, and his client, that his indication that despite this fact that they were going to go ahead with further interviews is an expression of forthcomingness on their part, that I would express appreciation for.

Ms. FURSE. I thank Mr. Leach for that explanation. I think it does also point out, even under the very best of circumstances, leaks do occur. And that it is very unfortunate that this one should have occurred.

Thank you, Mr. Chairman.

The CHAIRMAN. The time of the gentlelady has expired.

Mr. King.

Mr. KING. I have one quick statement and then a question. And to my statement you can respond in writing if you wish.

I have been listening carefully to your testimony today and whether by design or otherwise, I see a real lack of recollection by you, inconsistencies within your morning statement and your afternoon statement as to your conversation with Maggie Williams. And the effect of that is to put a wall around Maggie Williams and insulate the White House.

I think there is an inconsistency between what you said this morning, when you said you explained what you said was in the envelope, and this afternoon when you said you didn't explain what was in the envelope.

It is very simple: Maggie, there is a one-page sheet of paper from my diary. That doesn't take an investment banker or rocket scientist to explain to someone. And I find it hard to believe that you don't know what you told her. And again, you can respond to that in writing if you wish.

My understanding is that on February 1 you met with Secretary Bentsen, and by that time you had decided to recuse yourself.

Mr. ALTMAN. That is not correct. If I decided to recuse myself, I would not have asked Secretary Bentsen's advice or anybody else.

Mr. KING. At the end of that meeting, by the time you went to the February 22 meeting, it was your decision to recuse yourself. I am saying before the meeting as you were going into the meeting.

Mr. ALTMAN. I was asked that question last night and I said that sometime between completing the discussion with Secretary Bentsen and saying what I said, I don't know when it was before, there is only a 24-hour period, I decided to say what I said.

Mr. KING. Which was to recuse yourself.

Mr. ALTMAN. I said I have been advised to recuse myself and I intend to take that advice. I have been advised to recuse myself and I have decided to take it.

Mr. KING. Going into the February 2 meeting at the White House, in your mind, at that moment you were going to—it was your intention to recuse yourself.

Mr. ALTMAN. And I did recuse myself.

Mr. KING. February 2 you went and explained this to the White House. Did you tell them that you intended to recuse yourself down the line or did you tell them it was your intention to recuse yourself?

Mr. ALTMAN. I said I have been advised to recuse myself and I intend to take that advice.

Mr. KING. At that meeting a number of people, including Mr. Nussbaum, told you that they advised you that you should not recuse yourself, that it would be wrong. Is that fair statement?

Mr. ALTMAN. Mr. Nussbaum was before the committee.

Mr. KING. I am asking you. What is your recollection? Do you believe that Mr. Nussbaum's advice was not to recuse yourself?

Mr. ALTMAN. His point of view was that he did not agree with me.

Mr. KING. Mr. Steiner made entries in his diary, and I know he has tried to explain them, but the fact is that even though Secretary Bentsen, Mrs. Hanson, and apparently, you yourself had

thought it was best to recuse yourself after you spoke to Mr. Nussbaum, you had at least second thoughts about it. You had doubts.

What was Mr. Nussbaum's mood at that meeting? Was he animated?

Mr. ALTMAN. He is vintage Bernie. You had him here. He was as he always is.

Mr. KING. Was he loud?

Mr. ALTMAN. He was just himself. He is an excitable guy.

Mr. KING. So he was excitable during the meeting.

Mr. ALTMAN. He was just himself.

Mr. KING. He was not excitable at this hearing. I am asking you if he was excitable at the meeting with you. I think it is important to know. I think Senator Kerry asked you this.

How did Mr. Nussbaum present his argument? Did he raise his voice? Was he forceful? He must have done something to get you to change your mind. How did he do that? Force of personality? Great intellect? Was he loud? Was he a New York lawyer? Was he like Al D'Amato?

Mr. ALTMAN. He asked me a series of questions, as I have testified about, who would be in charge, and what Mr. Ryan's background was and what Ms. Kulka's background was—

Mr. KING. The chairman is going to gavel me. I am going to ask another question.

Was it the force of his intellect or the force of his personality and the implied power of the White House which caused you to have second thoughts and change your mind?

Mr. ALTMAN. I don't know how to answer that. Mr. Nussbaum said, and I didn't recall his exact words until he testified here, or said that, that he observed in the absence of a legal or ethical requirement to recuse, I had a duty to serve.

Mr. KING. Did he say anything that you hadn't heard before? Didn't the people at Treasury raise the same questions?

Mr. ALTMAN. No, I hadn't heard that argument before. And let's be realistic here. The Office of Government Ethics agrees with Mr. Nussbaum.

Mr. KING. I am wondering why you changed your mind this day. Or was he speaking for the White House and you took the message that the White House doesn't want me out?

Mr. ALTMAN. Mr. King, that is not the message I took. No one asked me not to recuse myself. No one said it was unacceptable. I didn't say, I am going to recuse myself this evening. I could have said, I have recused myself. I have done it. I didn't say I had done it. I said I was going to do it. I wavered, and I wish if I could do it again, I would have done it off the bat. But I did do it and when I did do it I didn't consult with anyone. I did it, and the 3-week period expired. And during that period—and I think that is the point—not a single step of the Madison matter came to me for any decision at all.

Mr. KING. But you were caused to waver because of what Mr. Nussbaum said.

The CHAIRMAN. Ms. Velazquez.

Ms. VELAZQUEZ. Mr. Chairman, by the time we get down to this end it is clear that there are not many issues that have not been touched upon by my colleagues. It may be true that by 9:30 this

morning there weren't any issues that Mr. Altman had not already addressed, so what we are left with is redundancy and boredom.

In any event, I think it is very important that the American public be clear about an issue that was referred to earlier. It is the 5-minute rule.

The media and some members of this committee have, I think, unfairly attacked the Chair and this committee for the way that these hearings are being conducted. However, the fact is that neither the Chair nor the majority created 5-minute limitations on questioning before we began our Whitewater hearings. This committee is required to operate under the 5-minute rule.

With 51 members on this committee, every one of our hearings could drag on for weeks if every member had an unlimited amount of time to question witnesses. That would be unfair to the members far down the line like myself, would be an abuse to the witnesses, and would guarantee that the committee got very little done over the course of this session.

The public should also be aware that any member has the right to provide any witness with additional written questions if he or she believes that important issues have not been addressed. Those questions and answers are, of course, public information.

I find it very disturbing that some in the minority and the press now portray the 5-minute rule as unfair. Why is it attacked now when it has been consistently applied in the past?

Where were the critics when the 5-minute rule was used for hearings on Charles Keating and the Lincoln S&L, on Neil Bush and the Silverado S&L, on Banco Nazionale and on BCCI?

The majority has also been attacked for limiting the scope of these hearings, again unfairly. The other party voted near unanimously on the floor of the House for the resolution which structured these hearings. It passed 405 to 15.

We have very appropriately decided that the hearings should not interfere with Mr. Fiske's criminal investigation.

I would also add that the leaders of the minority party negotiated this bipartisan agreement.

Let's recognize the attacks on the committee procedures for what they are. They are either a demonstration of ignorance about congressional procedures, or an obvious attempt to divert attention from the substance of these hearings.

The press and some members of the minority might not like them, but the facts are that today there is no credible evidence of criminal violations, of ethical violations, or of a coverup. Let's stop playing games and stick to the facts.

I yield back the balance of my time.

The CHAIRMAN. Thank you, Ms. Velazquez.

I think Mr. Wynn. We don't have any other minority.

Mr. WYNN. Thank you, Mr. Chairman.

Mr. Altman, is it fair to assume that there are personnel administrative policies at the RTC against the disclosure of nonpublic information?

Mr. ALTMAN. I believe so.

Mr. WYNN. Are you also aware that the Office of Government Ethics has determined that the likelihood of a leak is not an excep-

tion, if you will, to that requirement that this information not be disseminated?

Mr. ALTMAN. I don't remember reading that in the report, but if it is in there, fine.

Mr. WYNN. What I would like to ask you is, do you believe it was appropriate for the RTC to advise the White House?

Mr. ALTMAN. My understanding is that Ms. Hanson——

Mr. WYNN. No, no. I just want to ask you, in your opinion, do you believe it was appropriate, all specifics aside as a policy matter, do you believe it was appropriate for the RTC to advise the White House and give them this heads-up?

Mr. ALTMAN. Of an impending leak?

Mr. WYNN. No, of nonpublic information.

Mr. ALTMAN. I believe it advised them of an impending leak.

Mr. WYNN. No, they advised them of nonpublic information regarding referrals and you have already acknowledged that an impending leak is not an exception to the ethics guidelines. So I reiterate my question, do you believe it was proper for the RTC to give a heads-up to the administration?

Mr. ALTMAN. I think Mr. Cutler addressed himself to that and I think the Office of Government Ethics. I don't have an independent view.

Mr. WYNN. I am asking you your opinion. I am not badgering. I am asking for a policy opinion as the former Director of the RTC. What is your opinion?

Mr. ALTMAN. I agree with the Office of Government Ethics.

Mr. WYNN. I take that as an unwillingness to give me your opinion.

Mr. ALTMAN. They are ethics experts; I am not.

Mr. WYNN. I am not asking a reason for the policy that you just acknowledged for the RTC to give the administration this kind of heads-up. I would just like a yes-or-no answer.

Mr. ALTMAN. When I read the Office of Government Ethics report, I agree with it.

Mr. WYNN. That is fine. Let me move on.

Now, Mr. Roelle said he advised you in March. You deny this; is that correct?

Mr. ALTMAN. I said I don't have any recollection.

Mr. WYNN. You don't recall. You say you were advised in the fall; is that correct?

Mr. ALTMAN. Yes, sir.

Mr. WYNN. Who advised you?

Mr. ALTMAN. Mr. Roelle or Ms. Hanson or both of them.

Mr. WYNN. Do you recall which?

Mr. ALTMAN. No, I don't.

Mr. WYNN. At that time, when you were advised, what were your directions?

Mr. ALTMAN. My directions were clear: That this matter should be handled in the same fashion, identical fashion, as any other case.

Mr. WYNN. Did you give them any directions with regard to the White House?

Mr. ALTMAN. I don't believe I did.

Mr. WYNN. If Ms. Hanson went to the White House, she did so on her own?

Mr. ALTMAN. I don't believe I asked Ms. Hanson to do that.

Mr. WYNN. So you are saying that she did it on her own. Who was the acting general counsel for the RTC at that time?

Mr. ALTMAN. I believe it was Mr. Aboussie, but I am not positive.

Mr. WYNN. Is there a reason Mr. Aboussie was not called into this situation? Because Ms. Hanson was over at Treasury and you were wearing a RTC hat, so why not Mr. Aboussie?

Mr. ALTMAN. Well, I said earlier, I was relying on Ms. Hanson to help me out on a variety of aspects here.

Mr. WYNN. Well, let me move on.

Mr. ALTMAN. Mr. Roelle called me——

Mr. WYNN. That is fine. As to the February 2 meeting, which hat were you wearing when you walked into the White House that day?

Mr. ALTMAN. I was wearing the hat I guess of the interim CEO of the RTC.

Mr. WYNN. You were wearing the RTC hat but you didn't bring along the general counsel of the RTC, Ms. Kulka, you brought along the counsel for Treasury?

Mr. ALTMAN. Yes.

Mr. WYNN. Why didn't you bring Ms. Kulka?

Mr. ALTMAN. I had no reason not to bring Ms. Kulka. Ms. Hanson had been helping me out. Her office is right down the hall. I just asked her to come with me.

Mr. WYNN. You didn't bring the general counsel of the RTC when you were wearing the RTC hat? You discussed statute of limitation strategy at that meeting, did you not?

Mr. ALTMAN. I didn't discuss any strategy.

Mr. WYNN. Did you discuss options?

Mr. ALTMAN. Let's be very clear about this.

Mr. WYNN. I am asking, did you discuss options?

Mr. ALTMAN. No, I discussed——

Mr. WYNN. You didn't discuss statute of limitations policy in any way?

Mr. ALTMAN. I discussed the identical procedures which are used in any case involving an expiring statute of limitations. Absolutely generic.

Mr. WYNN. Let me just say that I think you have clearly passed the test of being absolved of criminal and unethical behavior. I am concerned, though, that you blurred the relationship between an independent regulatory agency, the RTC, and an administrative agency, the Treasury Department. I think it has been to the detriment of the President, to the effect that it has created an impression that something might have happened when, in fact, there is no evidence that anything happened. And I think that falls squarely on your shoulders because you were wearing these kind of hats in ways that was contrary to the RTC policy.

The CHAIRMAN. Time of the gentleman has expired.

Mr. WYNN. Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Hinchey.

Mr. HINCHEY. Thank you, Mr. Chairman.

Good afternoon, Mr. Altman.

Mr. ALTMAN. Good afternoon.

Mr. HINCHEY. I would just like to focus for a moment on the question of the statute of limitations. I know that this has been discussed earlier, but I think it might be helpful to look at it once again perhaps and maybe be a little clearer about it. It was established, I think, in your answer to a question by Mr. Leach earlier that initially you were not in favor of the extension of the statute of limitations; is that correct?

Mr. ALTMAN. Initially, we said, quote: "The RTC has no need at this time either to revisit closed claims arising in institutions in which the limitations period has expired or to extend the limitations period prospectively as the RTC will continue to meet all upcoming deadlines," unquote. That is what we said.

Mr. HINCHEY. But once the Congress decided it was going to authorize the RTC and extended the statute of limitations, once that decision was apparently made by the Congress, your attitude, as I recollect, was that that should be done and you worked aggressively in that direction; isn't that true?

Mr. ALTMAN. Well, in effect, we shifted our stance at some point later in the legislative process and said that an extension of the statute of limitations was fine.

Mr. HINCHEY. So you supported the statute of limitations, and if I remember you supported it very actively.

Mr. ALTMAN. Yes, we did.

Mr. HINCHEY. And when you did so, you were cognizant of the Madison Guaranty situation, were you not?

Mr. ALTMAN. I don't remember the exact dates. I may or may not have been. In other words, I became cognizant of the—well I'm not sure what you mean by the situation. I first found out in the fall at some point that criminal referrals were on the table. I don't know what the date of the bill was. Let's assume I was.

Mr. HINCHEY. Yes, I think that if we look at the timeframe involved here I think it is quite clear the Madison Guaranty situation was a situation that was clear to everyone; had been discussed; it was in the press, and, nevertheless, in spite of that, you were actively pushing for an extension of the statute of limitations. I just think it is important to get that on the record, because it has been alleged repeatedly with regard to—there have been allegations with regard to coverups, people trying to hide things, and a whole host of questions like that, and I think that this is one of the most critical aspects of this whole problem.

When it was clear that Madison Guaranty was going to fall under the extension of statute of limitations, nevertheless this administration was heavily in favor of the extension of that statute of limitations and worked actively to accomplish that objective?

Mr. ALTMAN. Yes, sir.

Mr. HINCHEY. Last Sunday, the Office of Government Ethics published their report. Who asked for that report initially? Do you recall?

Mr. ALTMAN. Secretary Bentsen.

Mr. HINCHEY. Secretary Bentsen asked for it?

Mr. ALTMAN. Yes, sir.

Mr. HINCHEY. And the outcome of that report was that there were no ethical violations on the part of you or anyone else at Treasury; is that correct?

Mr. ALTMAN. Essentially, yes.

Mr. HINCHEY. Essentially. Well, is there any reason why it was not as I described it?

Mr. ALTMAN. No, it's just that the actual release Secretary Bentsen made was that these conclusions permit me to say, permit me to conclude. In other words, they reached a set of findings and then handed it over for him to make a final determination and he said this report permits me to conclude there have been no ethical violations.

Mr. HINCHEY. Were you surprised at all by the findings in that report?

Mr. ALTMAN. No, sir.

Mr. HINCHEY. You expected that to occur, did you not?

Mr. ALTMAN. Yes, sir.

Mr. HINCHEY. Isn't it true the Office of Government Ethics is a nonpartisan organization? And I believe, as a matter of fact, isn't it true that the head of the Office of Government Ethics is currently someone who was appointed by the Bush administration?

Mr. ALTMAN. Yes, sir.

Mr. HINCHEY. So this is a group of people who have no reason to be carrying any water for you or for the Secretary of the Treasury or for the administration in any way. They have examined this in an objective fashion and they have concluded that there was no violation of ethics in any sense.

Mr. ALTMAN. That's correct.

Mr. HINCHEY. And we have also, of course, the reports of Mr. Fiske, the independent counsel, who is a Republican, who nevertheless, despite the fact he is a Republican, is not quite Republican enough for some people around here, apparently, who has concluded there were no criminal violations involved.

Mr. ALTMAN. Yes, sir.

Mr. HINCHEY. Thank you very much, Mr. Altman.

The CHAIRMAN. The gentleman yields back the balance of his time. Mr. Klink.

Mr. KLINK. Good afternoon, Mr. Altman.

Mr. ALTMAN. Good afternoon, sir.

Mr. KLINK. I just wanted to follow up on a couple of things, because I am not sure that we are not looking at this whole thing, in fact, a little bit backward. There has been some discussion that in conjunction with your decision as to whether or not you should recuse yourself, that Mr. Nussbaum might have been, in fact, a little bit concerned, or others at the White House might have been concerned, that they would have ended up with someone who was unfriendly at RTC. But, in fact, as you testified today that Mr. Roelle and Lamar Kelly pretty much handled a lot of the day-to-day operations at RTC because you had taken on other hats. Am I missing something?

Mr. ALTMAN. Throughout 1993 they did. But both Mr. Roelle and Mr. Kelly left the RTC to return to the FDIC around the end of 1993.

Mr. KLINK. And, in fact, Whitewater—you had directed Ellen Kulka to handle the Madison matters.

Mr. ALTMAN. Yes, sir.

Mr. KLINK. Can you just explain to me, though, how was it that you handled both of those positions? How did you divide your time?

I mean, I noticed on page 3 of your statement you talked about your role was to provide general oversight at twice weekly RTC senior staff meetings involving 8 to 10 RTC officials. Was that the true extent of your service to the RTC?

Mr. ALTMAN. I spent about 3 hours a week on it in the form of these twice weekly senior staff meetings. That is the only time I had, because my primary job was being Deputy Secretary to the Treasury and all the matters I got involved in. For example, I took a 5 week, took 4 or 5 weeks off and worked full time in the budget war room. I didn't have anything to do with the RTC during that period. So I spent on average about 3 hours a week on it. That's all I could do.

Mr. KLINK. Good part of what occurred here—we are looking to try to find out where the problem is. And the reason I say we may be looking at it backward, could the problem be that in fact you didn't have enough time to put into the job and that from a senior management position the RTC for some period of time was in fact operating on automatic pilot?

Mr. ALTMAN. One could conclude that's correct, although we did institute a series of management reforms and I think they really did improve the RTC. We didn't just leave it as we found it.

Mr. KLINK. But, in fact, during that time period of 1993, it was those people who were hired by Mr. Casey who was appointed by Mr. Bush that were running the RTC for Bill Clinton.

Mr. ALTMAN. On a day-to-day operating basis.

Mr. KLINK. And for Secretary Bentsen?

Mr. ALTMAN. On a day-to-day operating basis, yes.

Mr. KLINK. As you look back on that now, as you sit here after a couple of grueling days of testimony in front of the Senate and the House, do you regret that you did not have more time to put into it; or that you didn't throw your hands up in the air at some point and say, Mr. Secretary, I can't accept both of these duties, we need to have someone in here that can dedicate full time to making sure that this operates? I am asking you for 20/20 hindsight.

Mr. ALTMAN. I felt increasingly strongly that I wasn't doing the job well enough because I didn't have enough time. And I remember expressing quite a few times toward the end of 1993 that this wasn't right. I didn't have enough time to spend on it and I didn't feel I was doing the job I should do and we have to change this in the sense of getting nominees who will work up here in the Congress and get nominated, I am sorry, get confirmed and be able to serve.

Mr. KLINK. By continuing on, again in 20/20 hindsight, did you not serve Secretary Bentsen and not serve the President in the best way by not throwing up the white flag and walking away?

Mr. ALTMAN. I was just doing the best job I could to deal with the two responsibilities.

Mr. KLINK. I see I am running out of time. I want to jump ahead to a couple of other things.

One of the things I want to get clear on, and if somebody asked the question and I missed it earlier today, I am sorry, to your knowledge—and I am not talking about to you but to anyone—did

Mr. Stephanopoulos or Mr. Ickes suggest to anyone that Mr. Jay Stephens be removed? Are you aware that that suggestion was ever made?

Mr. ALTMAN. They did not suggest it to me. I don't believe they suggested it to Mr. Steiner but he will be here this afternoon to testify.

Mr. KLINK. You don't know that they suggested it to him? You have no knowledge—no one suggested it to anyone in your presence or you have not had conversations with anyone that would suggest that Mr. Stephanopoulos or Mr. Ickes did suggest Mr. Jay Stephens somehow be severed from the relationship?

Mr. ALTMAN. First of all, on February 25, in the afternoon, they made a call to me and inquired about Jay Stephens. We had a discussion. They did not ask me to do anything about him. There was also a conversation, I think it was later than mine, with Mr. Steiner. I think Mr. Stephanopoulos and Mr. Steiner, I'm not certain. I don't think they asked Mr. Steiner to do anything about it either but I wasn't in on that conversation. I wasn't there. I wasn't on the phone. I wasn't part of it.

Mr. KLINK. Thank you.

The CHAIRMAN. The time of the gentleman has expired. Mr. Fingerhut.

Mr. FINGERHUT. Thank you, Mr. Chairman. Mr. Altman.

In my opinion, my colleague, Mr. Wynn, and now Mr. Klink, have really started to put their finger on the nub of the matter, and that is this two-hat role that you were wearing. Mr. Wynn, though, pointed the finger directly at you, and while I think that there is some responsibility, as you would acknowledge for that, we have to also admit that the responsibility goes higher, to those that asked you to wear those two hats and, thus, helped contribute to this, even though, as I understand, you expressed some reluctance to take on the job in the first place.

But having taken it on, you then became the head of a regulatory agency for which it was well-known that there were criminal referrals being produced at a rapid rate because of the actions in the savings and loan industry that had given rise to the RTC in the first place.

So my question would be, what did you do upon taking over the RTC, however reluctantly, to understand the proper rules and regulations that needed to apply to the handling of criminal referrals and to try to make sure that there was a policy in place to accurately handle any situation that might arise?

And in answering that question, I would ask you to understand that given the facts of the article to Mr. Nussbaum in March 1993, whether you recall doing it or not, it is clear that the knowledge that there might be some problem involving Madison Guaranty must have been in the minds of you and others at the time.

Mr. ALTMAN. Well, first of all, Mr. Fingerhut, I never played any role of any kind in regard to decisions on criminal referrals. No matter ever came to me for decision. That is not how the agency was structured. I had no role whatsoever.

I believe that the policies which were in place when I got there on this matter were maintained without change.

Mr. FINGERHUT. Did you make yourself acquainted with what those policies were and make whatever staff came with you or was dealing with you in your other hat familiar with those policies?

Mr. ALTMAN. No, I didn't have anything to do with that area. In other words, the policies which were in place when we took it over, in that respect, continued.

Mr. FINGERHUT. What, in your understanding, were those policies when you took over?

Mr. ALTMAN. I didn't have anything to do with the criminal referral area, sir, so I don't know very much about—I'm not an investigator. I never met with an investigator. I never called an investigator. I can't tell you about the investigatory rules that they used. That's just not my area.

Mr. FINGERHUT. The issue is not just I think the preparation of the criminal referrals but what would happen in the event that those criminal referrals started to become public or in fact did become public. Ultimately, the bottom line, as I think Mr. Klink appropriately points out, you were the head of this agency, however reluctantly you are the head of the agency, and therefore have ultimate responsibility for how this matter gets handled within the agency.

Mr. ALTMAN. Mr. Fingerhut, I think the main point is that there was no interference, delay, compromise, alteration in any case, including the Madison case, whatsoever. There was no impact on the case. I think that the RTC, to the best of my knowledge, handled itself quite well. There was no impact on this or any other criminal referral that I am aware of by virtue of my appointment.

Mr. FINGERHUT. But we are here today because of however the information was transmitted has created the appearances that some special attention was given to this matter in order to give the heads-up to the White House.

And I guess that my question, I think you have answered it, which was there were no steps taken, is to whether or not any internal policies or internal action was taken by you, as Administrator of the RTC, and by the senior staff to deal with a situation which, again, maybe it is 20/20 hindsight, but does not seem that out of the realm of possibility to have occurred, which is precisely what did occur, the leaks and the need to have the information.

Mr. Stephanopoulos and others have said the reason why they thought this all was so justified is because the RTC is a virtual sieve when it comes to these situations and that is what they felt made them so certain these leaks would happen. So, in other words, this is not just something that you dealt with as the Administrator of the RTC and took no steps on; is that right?

Mr. ALTMAN. I never had any involvement in any investigation or any case and any decisions therein at any time.

The CHAIRMAN. The time of the gentleman has expired.

The Chair will thank the witness for his acceptable patience.

Mr. FRANK. Will he tell us what he is doing tomorrow, what he is doing for fun tomorrow?

The CHAIRMAN. Well, I think on the contrary.

Mr. ALTMAN. Everybody thinks I am going to go home and go to sleep now but I am going to go see the Rolling Stones tonight.

The CHAIRMAN. Well, I do want to express, in the name of the committee, its gratitude for your cooperation, and under difficult circumstances. We understand that. In fact, I could ask the gentleman from Massachusetts, who is a legal beagle, perhaps help me draw a resolution providing the equivalent of a congressional purple heart to be awarded to you. But, in any event, seriously speaking, we want to thank you, and the witness is discharged.

Mr. FRANK. Could I ask one last question, who do you like better, the House or the Senate?

Mr. ALTMAN. I would like to make just one personal notation, it may not be a relation to anything.

The CHAIRMAN. Yes, certainly.

Mr. ALTMAN. I am very proud of the years I have had in public service. It has been a great privilege. And I got my inspiration from Congressman Kennedy's father, who was the finest public figure I ever had the privilege of meeting. And so every time I come before the committee and I see Congressman Kennedy I think of that as my fondest memory, just wanted to say that.

The CHAIRMAN. Well, thank you very much.

Mr. KENNEDY. Mr. Chairman, just in response, I think, given all that you have been through, I am sure that my dad would have looked fondly on not only the toughness that you have shown but the fine work that you have done in public service.

Mr. ALTMAN. Thank you.

Mr. KENNEDY. Thank you.

The CHAIRMAN. Thank you again.

The committee will stand in recess to enable the members to vote. I understand this is the last vote for the day and we will impanel the second set of witnesses on our return.

[Brief Recess.]

The CHAIRMAN. The committee will come to order.

I want to thank the second panel, in fact thank them for assembling quickly and expeditiously, and I believe every member has the list.

Ms. Jean E. Hanson, the general counsel of Treasury Department; Mr. Joshua Steiner, the Chief of Staff to the Secretary, Department of the Treasury; Mr. Dennis I. Foreman, deputy general counsel, Department of the Treasury; and Mr. Jack DeVore, Jr., former Assistant Secretary for Public Affairs and Public Liaison of the Department of the Treasury.

And as we said earlier, this is what today's hearing is about, that aspect having to do with Treasury. We had White House staff testify last week, as everybody knows by now.

So my understanding is that this was the last vote for the day, and talk about unpredictability, the parliamentarian says that, unless something wild happens. So I think you gentlemen from the executive branch ought to take some pleasure in realizing that we have things happen on our side that no matter how we desire, we cannot control.

I will recognize the witnesses in the order that I have mentioned your names, and I will say again what I have said on each occasion. The committee is progressing under rule X, that is which defines the investigative aspects of a committee.

The reason there is so much confusion about the purposes of a congressional hearing is that it is quite understandable for a citizen, not a Member of the body, and even for Members of the body, not conversant with the rules and the history of the rules, to understand that the Congress does not have an unlimited right to investigate.

Another reason there may be a misperception is that Congress, at times, has violated that purpose and that function. Those experiences in the past that have been the most outstanding in their public attention, incidentally, led to very concise and very well prepared rules to protect the rights of witnesses appearing before a congressional committee on the House side.

Another reason for confusion is that when a citizen sees that the two bodies of Congress are conducting investigations, they obviously notice and perhaps cannot very well explain the differences and, of course, they are very simple. One, the Senate consists of 100 Members, the House of 435. And so by its very nature, rules have—from its inception, the first Congress, in 1789, when the House consisted of far less Members, found it necessary to construct rules based on the Mother Parliament's precedents and also the rules formulated in the various States, such as Virginia, and then on the national level once we became a Nation, by Jefferson.

And, as a matter of fact, I will advise the Members that we are actually bound under the rules of the House and Jefferson's "Manual of Rules." So that it was not soon after the House of Representatives, in large part because of the growth of the Nation and the increase in representation, based on population as it is in the House, that rules such as the 5-minute rule, which quite to my surprise reflected in some journalist that I think had some exposure to covering the Congress, reflecting amazement that there was such a thing as a 5-minute rule. And, in fact, giving me the great undeserved honor of being the father of that rule.

And I must deny paternity, because it was not until 1847 that given the increase in the size and the particular passionate issues that were developing following the compromises of the 1830's and then the one leading to the compromise of 1854, the beginning storm revolving around slavery, and the admission conditions debated in the Congress about the admission of territories as States and whether they would be free soil or slavery States. That was a big issue. Unless you read this history, it cannot be appreciated.

Mr. LEACH. Would the gentleman yield?

The CHAIRMAN. Yes, sir, I will be glad to yield.

Mr. LEACH. In that history, I do think it fair to point out that the Republican Party was born of an antislavery movement.

The CHAIRMAN. That is true.

Mr. LEACH. And we are not charging paternity.

The CHAIRMAN. No, as a matter of fact, though—and I better not enlarge on history because we will be here forever—I just want to bring this out. If at times I have interrupted members—last week particularly—it was under the responsibility and the charge invested on me as chairman to respect the witnesses as well as to respect the dignity and decorum of the committee and members, from any attempts to demean or in any way, in fact, in the words of the rule—

Mr. BACHUS OF ALABAMA. Mr. Chairman.

The CHAIRMAN. Defame, degrade, or incriminate, and that is a double task.

I must defend the witnesses under the rules. It is a mandate as well as the members. And for that reason, I want to point out that as we proceed in this case and recognize a witness and ask them to take the oath, it is because we have invoked rule X as an investigatory body, and also, as I repeated this morning, under the House-passed rule known as Resolution 394 and as agreed to by the bipartisan leadership as to implementation of that rule, and not under the agenda of the committee, so to speak.

That is the difference and I must go through that because I think it is pertinent for us to understand that these are not developed at the whim or the instance of the chairman, but the chairman's best attempts to carry out the rules.

So we also want to stress that none of the witnesses appearing here, as they are voluntarily, are under any kind of a cloud of impropriety, whether civil, criminal, or ethics or what have you.

So with that, I will ask Ms. Hanson as our first——

Mr. BACHUS OF ALABAMA. Mr. Chairman, I have a point of inquiry.

The CHAIRMAN. Yes.

Mr. BACHUS OF ALABAMA. Mr. Chairman, for clarification, the 5-minute rule, we also have a 7-day rule on notification of witnesses, and is it my understanding that those rules have the same force and effect as House rules, but that you can waive both those rules?

I am just seeking clarification.

The CHAIRMAN. No, no.

Well, let me answer the gentleman. The rules provide that insofar as it is possible to provide the 7 days, we have where it has been possible. But under the current circumstance, where we have had to contact witnesses, find out who and who is not available, and, remember that up until last week, it was not quite sure, and then the rules provide that as reasonable as is possible. And I have tried to do that within a 3-day period, and I think we have adhered to that.

But the rule is not mandatory. It does allow discretion. But insofar as it is possible, the rule makes it clear that if you could, to give your seven. And I have in every other case where we have had stable and a precise witness list and have sent the letters of invitation out. That also is a requirement. We have in writing to invite the witnesses and explain to them the purposes for which they are being invited.

Mr. BACHUS OF ALABAMA. Mr. Chairman, now, on the 5-minute rule, it can also be waived; is that correct?

The CHAIRMAN. No, sir.

Mr. BACHUS OF ALABAMA. It cannot?

The CHAIRMAN. The 5 minutes cannot be waived by a member.

Mr. BACHUS OF ALABAMA. By the chairman?

The CHAIRMAN. You can defer to another member, as has happened here, but you cannot waive it.

Mr. BACHUS OF ALABAMA. Can the chairman waive the 5-minute rule?

The CHAIRMAN. No.

Mr. BACHUS OF ALABAMA. Now, this does not—but you also can control the number of witnesses on a panel, which would control the time to a certain extent; is that not true?

For instance, if you have 10 people on a panel or 8 people on a panel, that would limit the 5-minute rule to even less time?

The CHAIRMAN. No, not necessarily. The rule is mandatory in that every one, every one of the 51 members must be given an opportunity for 5 minutes to ask questions. If, through unanimous consent, a member requests additional time, that may or may not. If an objection is heard, well, then, that is it, but the chairman must adhere to the 5-minute rule.

Mr. BACHUS OF ALABAMA. Mr. Chairman, I would just simply say to the chairman that acknowledging the 5-minute rule and its limitation on time, that I would urge you to always be sensitive to smaller panels.

The CHAIRMAN. No, I appreciate that, and we have, where it has at all been possible to do so and have coherency of presentation by the witnesses called.

Mr. BACHUS OF ALABAMA. Thank you, Mr. Chairman.

The CHAIRMAN. Well, Ms. Hanson, if you will please rise and raise your right hand.

Do you solemnly swear or affirm in your testimony to be given this committee to tell the truth the whole truth and nothing but the truth, so help you God?

Ms. HANSON. I do.

The CHAIRMAN. You may be seated and proceed as you deem best

TESTIMONY OF JEAN HANSON, GENERAL COUNSEL, U.S. DEPARTMENT OF TREASURY

Ms. HANSON. Thank you, Mr. Chairman.

Mr. Chairman, members of the committee, I am Jean Hanson, general counsel of the Treasury Department. I have been privileged to hold that position since June 1993. I am testifying today about communications between Treasury officials, including me, and White House personnel relating to Madison Guaranty Savings & Loan.

Out of respect for this committee and for the investigations that preceded this committee's work, I have refrained from speaking to reporters about this matter. There have been many recent leaks of my testimony and documents, which include numerous misstatements and mischaracterizations. I welcome this opportunity to testify publicly and to speak for myself. I hope you will make your judgments based on my testimony today.

I have tried my best to recollect everything that occurred about this matter. I have also reflected on the reasons for these conversations. I know that these conversations violated no law, no rule, and no ethical standard. I also know that they were appropriate, and that they further legitimate governmental interests.

Before I turn to Madison, I want to tell you a little bit about myself. For nearly two decades before coming to Washington, I practiced law in New York, working on complex corporate transactions. I came to New York from Minnesota, where I was born and where I was reared to do things in a straightforward, Midwestern way—

honestly and by dint of hard work. I am not a Beltway Insider nor a political person.

Prior to coming to Washington, I had no contact whatsoever with the President or the First Lady. I did not campaign for them or for any candidate, and I do not owe my Treasury appointment to political activism. I was recruited for my position. My husband is a Republican.

I did not know Secretary Bentsen before I accepted his offer to become Treasury general counsel; indeed, I did not know anyone at Treasury or in the White House. I accepted Secretary Bentsen's offer for one reason—I wanted to contribute to the important work of the government, and to give something back to my country. I still do.

At the outset, I would like to address my role in RTC matters. As Treasury general counsel, I am charged with carrying out duties and assignments given to me by Secretary Bentsen or Deputy Secretary Altman. I fulfilled assignments relating to the RTC given to me by Mr. Altman and at times Secretary Bentsen, but at no time did I ever hold any position at the RTC, nor have I ever been acting RTC general counsel.

To say the least, the RTC is an unusual entity, and people often misdescribe it and its functions. For example, it is a corporation, not an agency, except for limited purposes. It is not a regulatory body, because it does not regulate anything. And, it is not independent—the RTC CEO serves solely at the President's pleasure, unlike independent agencies, such as the SEC and the CFTC. It has a finite lifespan, now scheduled to end next year. Except for its CEO, it has no employees and must carry out its functions by using FDIC and executive branch personnel, including Treasury employees.

As interim RTC CEO, Mr. Altman had statutory authority to seek the assistance of Treasury personnel on matters related to RTC functions, and as the Deputy Treasury Secretary, he had the authority to grant the assistance of such personnel. Mr. Altman asked me to assist him in policy-related and other issues involving the RTC, and I did so. Mr. Altman undertook to serve two jobs, for a limited period. He was entitled to all the assistance he could muster. It was entirely appropriate for me to assist him in any legitimate way he requested.

I now turn to Madison and what I learned, how, from whom, and to whom I imparted that knowledge. Given time constraints, I will not cover every meeting or conversation that I discussed in my interview with this committee. Rather, I address the principal contacts regarding Madison in which I was involved.

To put this into context, it is important to understand that there were two distinct phases to the RTC's consideration of Madison—first was the preparation of multiple criminal referrals relating to Madison that I ultimately learned were forwarded to the Justice Department; and second was the consideration by the RTC of potential civil claims that might be brought against various persons who had had some involvement with Madison.

For the last few days of September 1993, through the second week of October 1993, the limited discussions in which I partici-

pated related to concerns about leaks to the press of the Madison criminal referrals.

In December, the passage of the RTC Completion Act revived the previously lapsed statute of limitations for many potential civil cases, including Madison. From mid-January of this year until the end of February, the limited discussions in which I participated related to the statute of limitations and other procedural matters surrounding possible civil claims related to Madison.

On September 27, 1993, RTC Senior Vice President William Roelle called to tell me that nine criminal referrals related to Madison were on their way from the RTC in Kansas City to Washington, after which they would be forwarded to the Department of Justice. I clearly understood from Mr. Roelle that the referrals, and the information about them that Mr. Roelle imparted to me, would be leaked to the press when they arrived in Washington—which, in fact, did occur very close in time to Mr. Roelle's call to me.

Mr. Roelle summarized the referrals and said that the President and Mrs. Clinton were mentioned as possible witnesses. I reported this conversation to Mr. Altman, who tasked me to advise Bernard Nussbaum, then-counsel to the President, of the imminent press leaks. On September 29, I did so, after a meeting that both Mr. Nussbaum and I had attended to discuss Treasury's reports on the handling of the Waco situation.

A few observations are in order. First, before Mr. Roelle's unsolicited call, I had no prior knowledge of Madison, other than a news story that had appeared during the campaign.

Second, my task—to alert White House Counsel Nussbaum to imminent press leaks so that he could deal with them intelligently—was entirely appropriate and necessary; the existence and substance of the criminal referrals was leaked, and the administration did have to deal with the ensuing inquiries.

Third, no preferential treatment or benefit was intended for anyone; and, as far as I know, no one received preferential treatment. The President and First Lady were not the subject of any proposed governmental action; they were merely possible witnesses.

It has been reported that Mr. Altman does not recall tasking me to advise Mr. Nussbaum of what the RTC professional staff believed would be imminent press leaks. In my view, the difference between Mr. Altman's and my recollections on this point is not significant. If I had thought it was inappropriate to brief Mr. Nussbaum, I would not have done it.

I take full responsibility for the decision to do so. What I think is significant is that Mr. Altman and I agree that it was entirely appropriate to brief Mr. Nussbaum about the expected leaks.

When the search was done to locate documents responsive to the independent counsel's subpoena, a September 30, 1993 memorandum I prepared was found in my secretary's files, as well as in my own RTC files. That memorandum, addressed to Mr. Altman, had attached to it a document confirming that the referrals had been leaked to the press and reported that I had spoken with Mr. Nussbaum and Mr. Sloan, had briefed Secretary Bentsen and inquired of Mr. Altman whether there was anything else he thought we should be doing regarding these press leaks.

I do not have an independent recollection of writing this memorandum, but I am confident I prepared it—it bears my initials and is the kind of memorandum I write to report back on matters I have been asked to handle. Although I have no recollection of having briefed Secretary Bentsen as the memorandum states, I am sure my memorandum accurately reflects that I did.

The memorandum does not specify the subject of the briefing; I may have told Secretary Bentsen of the meeting; or, as is more likely, I may have alerted him to the fact that there would be press leaks relating to Madison criminal referrals and the nature of the anticipated leaks.

On October 14, I attended a meeting at the White House arranged either by Mr. DeVore or Mr. Steiner, two senior Treasury officials, who are here on the panel with me today, the purpose of the meeting was to discuss the handling of press inquiries that Mr. DeVore had received with regard to the Madison criminal referrals. The issue I recall Mr. DeVore saying the press had raised then was whether the referrals were being held up at the RTC and not being forwarded to the Justice Department. Implicit in that question was a suggestion of misconduct by Treasury or White House officials.

I have no doubt that meeting was appropriate. First, the press inquiries Treasury had received confirmed that information about the criminal referrals had been leaked now to at least two reporters, a significant breach of government regulations that gave the administration officials no choice but to be prepared to respond. Indeed, I was struck, when the articles in question appeared in the paper in late October and early November, by how much more the reporters knew about these referrals than I ever did.

Second, the inquiry was based on false information that cast the administration in an inaccurate and decidedly prejudicial light, which the government had an obligation to correct. Again, there was no intent, and certainly, I know of no effort, to interfere in any way with the referrals which, I believe I subsequently learned had already been forwarded by the RTC to the Department of Justice.

By mid-January, congressional attention became focused on upcoming deadlines under the statute of limitations for the filing of any civil claims the RTC might bring in the Madison matter. At the time, civil claims involving Madison had to be filed on or before February 28, 1994, unless the RTC either decided not to pursue any civil claims, or obtained tolling agreements from the parties who might become the subject of a civil suit.

Various Members of Congress were pressing the RTC to obtain tolling agreements if the RTC could not complete its Madison investigation by February 28. In the face of the fast-approaching deadline, Mr. Altman considered whether he would recuse himself from substantive decisionmaking regarding Madison-related civil claims.

On February 1, 1994, Mr. Altman and I briefed Secretary Bentsen on the operation of the statute of limitations in the Madison matter. In that meeting, Mr. Altman stated that he had decided to recuse himself from any substantive decisionmaking regarding the Madison civil claims, a course that I had recommended to Mr. Altman, and one in which Secretary Bentsen concurred during our meeting. Mr. Altman stated that he wanted to meet with appro-

priate White House officials to apprise them of his decision to recuse himself. I said that I would attend the meeting with him.

To assist Mr. Altman, I prepared talking points to guide him through both the statute of limitations and the recusal issues. Prior to leaving Treasury for the White House, out of an abundance of caution, I consulted with my deputy general counsel, Dennis Foreman, who is here with me today, and who is also Treasury's designated ethics officer, to see whether he had any pragmatic or other concerns regarding the topics Mr. Altman proposed to discuss. He had none.

The meeting took place in Mr. McLarty's office, although Mr. McLarty left before the meeting began. In addition to Mr. Altman and me, the meeting was attended by Mr. Nussbaum, Mr. Ickes, Mr. Eggleston, and Ms. Williams.

Mr. Altman read the talking points, including the last point—that he had decided to recuse himself from any substantive decisionmaking in the Madison civil matter. There was no discussion regarding the substance of the RTC's civil investigation and I was not capable of such a discussion since I had no knowledge of the substance of the RTC's investigation.

After Mr. Altman's statement on recusal, the discussion ensued. Mr. Nussbaum asked if the matter would be decided by Ellen Kulka, the RTC general counsel, and Jack Ryan, the Interim Deputy CEO of the RTC, to whom Mr. Altman had referred in his discussion. Mr. Altman responded, yes.

Mr. Nussbaum also asked why Mr. Altman was recusing himself, since no one appeared to believe that there was any legal or ethical requirement that he do so. Mr. Altman indicated that I had recommended that he recuse himself. I added that Secretary Bentsen had concurred in that judgment.

Mr. Nussbaum said that he knew Ellen Kulka, or knew of her from her prior tenure at the Office of Thrift Supervision. He said that he was not saying that she wasn't a good lawyer, but that she was tough. Mr. Altman responded by saying that he had enormous confidence in Ms. Kulka and that he would follow any recommendation he received from her anyway, so his involvement was irrelevant.

Mr. Nussbaum expressed the view that even if Mr. Altman intended to follow his staff's recommendation, Mr. Altman's presence as RTC's CEO would ensure that the RTC staff pursued any claims with thoroughness and professionalism.

Mr. Ickes expressed the view that, if Mr. Altman were going to disqualify himself, it would be better if he did it sooner rather than later. Ms. Williams asked whether, if the investigation could not be completed by the end of February, that would mean that tolling agreements would have to be signed. Mr. Altman indicated that he thought so. She also asked if counsel for the private parties would be briefed. Mr. Altman indicated that he thought so, but was not sure.

The meeting ended with Mr. Altman stating that he would think about the recusal issue overnight, and Mr. Nussbaum told him that was all they could ask. The following morning, Mr. Altman told me that he had decided not to recuse himself for the time being.

The White House meeting on February 2 was proper. First, the briefing on the operation of the statute of limitations did not impart any nonpublic information; it merely apprised the White House of how the law operated, a briefing also given to congressional personnel.

Second, the briefing served a legitimate governmental purpose. By the February 2 meeting, Senator D'Amato and others were counting down the days, wondering whether the RTC would make a decision in connection with possible Madison civil claims before the statute of limitations expired, and what that decision would be.

Mr. Altman was aware of the recusal issue, and acted appropriately in considering whether to exercise his discretion to recuse himself—a decision that ethics officers advised was entirely up to him and not mandated by ethics statutes or regulations. When he reached a conclusion, it was entirely appropriate for him to tell Mr. Nussbaum and other White House officials.

Third, no discussion took place regarding the substance of any civil claims. I was not in a position to have such a discussion.

Fourth, and most importantly, Mr. Altman viewed the issue of recusal as one of process and not substance, because as he repeatedly said to me, to Ellen Kulka, and to others, he intended to follow whatever recommendation he might receive from Ms. Kulka. I believed him then and I believe him now.

In recounting the events of February 1 and 2, I am aware that others' recollections differ from my own. I do not question the good faith of anyone who has a differing recollection. Most importantly, I think these differences in recollection are irrelevant. What matters is that each of the events in which I was a participant pursued legitimate objectives and was appropriate. Despite differences in recollection, no one, to my knowledge, intended to or did anything wrong or unethical.

As my description of the events of last fall and this past winter makes clear, each of the conversations between White House and Treasury officials at which I was present served a legitimate governmental purpose and was not intended to and, in fact, did not further any private interests or bestow any benefit on any individual.

The same cannot be said for the RTC employee, or employees, who leaked information about the criminal referrals to news reporters, including breaching the Office of Government Ethics' ethical standards and RTC regulations. No action was ever taken against them.

I think it is important for all of us to maintain our focus. Much has been made in the press about purported inconsistencies between some of my recollections and those of Secretary Bentsen and Deputy Secretary Altman. I have the highest respect for both Secretary Bentsen and Deputy Secretary Altman, and it is my honor and privilege to serve with them and report to them. The fact that we have differences in recollection should come as no surprise.

Witnesses to events often have differing recollections. And, frankly, the differences here are not important—they are not important because no one, not me, not anyone at Treasury, and no one at the White House, attempted to interfere in the substance or processes

of any criminal referrals, or the substance or processes of any potential civil claims involving Madison.

The criminal referrals were made; the civil claims continue to be explored; and Mr. Altman recused himself from any involvement in the Madison matter almost one-half year ago, never having made or having been asked to make any decision.

At the outset, I indicated that I only know one way to do things—with honesty, and consistent with legal and ethical requirements. I have been interviewed extensively by the staff of this committee, and this is the 8th day that I have given sworn testimony before a governmental investigative body.

I have tried to give this committee—albeit in abbreviated form today—my best recollection of what occurred, and why. I am satisfied that I have given you my best recollection, as I have done on each prior occasion that I have testified, and the numerous additional times I have been interviewed. I have no doubt about the propriety of my actions, and I have no reason to doubt the propriety of anyone else's action.

I thank the committee for the opportunity to make this statement, and I welcome any questions the committee may have.

[The prepared statement of Ms. Hanson can be found in the appendix.]

The CHAIRMAN. Thank you very much, Ms. Hanson.

Mr. Foreman, will you please rise and raise your right hand. Do you solemnly swear or affirm that the testimony you are to give this committee is the truth, the whole truth, and nothing but the truth, so help you God?

Mr. FOREMAN. I do, sir.

The CHAIRMAN. You may be seated.

If Mr. Foreman would withhold.

The gentleman from New York seeks unanimous consent. Will the gentleman state his unanimous consent request?

Mr. LAZIO. Mr. Chairman, I would ask the unanimous consent to enter a letter dated July 27, 1994, into the record that speaks to some of the comments made by an earlier witness, Mr. Cutler.

The CHAIRMAN. Is there any objection to the request?

Hearing none, it is so ordered.

Mr. FRANK. Mr. Chairman.

Mr. WATT. Mr. Chairman, could we obtain a copy of the letter?

Mr. LAZIO. As a matter of fact, I would be glad to read it if you think that is appropriate.

Mr. WATT. I just want a copy of it.

The CHAIRMAN. If the gentleman would get some Xerox copies and provide them for the membership, it would be helpful.

Mr. FRANK. Mr. Chairman.

The CHAIRMAN. The Chair hears no objection to the gentleman's request.

[The letter referred to can be found in the appendix.]

Mr. FRANK. Mr. Chairman, while we are at it, I would ask unanimous consent to insert an opening statement for myself from this morning.

The CHAIRMAN. Yes, of course, the Chair has stated, but it failed this morning, to repeat the observation that every member is given

an opportunity to place in the record an opening statement, which will be printed in the transcript of these hearings.

So the gentleman's request is honored.

[The prepared statement of Mr. Frank can be found in the appendix.]

Mr. KING. Mr. Chairman, is it an opening statement if it is submitted at the end? Do you have to change the description of the statement?

Mr. FRANK. That is true. That is true, if it were submitted at the end, but we are in the middle.

Mr. KING. So is it a middle statement.

The CHAIRMAN. All right.

Mr. Foreman.

TESTIMONY OF DENNIS I. FOREMAN, DEPUTY GENERAL COUNSEL, U.S. DEPARTMENT OF THE TREASURY

Mr. FOREMAN. Good afternoon, Mr. Chairman, Congressman Leach, members of the committee. My name is Dennis Foreman and I am the deputy general counsel of the Treasury Department. I have been in public service for nearly 24 years. I am a Vietnam veteran, having served in the U.S. Army's Airborne Special Forces. I was with the U.S. Foreign Service for 5 years, including postings to the United States Embassies in Beirut, Tunis, and the United States Mission to the United Nations in New York. I have worked in four Executive Branch Legal Offices.

In 1989, I was selected to be the Assistant Legal Adviser for Ethics and Personnel at the Department of State, which was my first position with ethics responsibilities. In January 1991, I was appointed to the Treasury deputy general counsel position which carries with it the responsibility of the designated agency ethics official.

I am appearing here today at the committee's request to discuss matters pursuant to House Resolution 394. Because of my position as the senior ethics official at Treasury, I have certain responsibilities. To put those responsibilities in proper perspective, I think it is appropriate to briefly review some of the events in which I was involved.

My involvement in and knowledge of the events leading up to the February 2, 1994 meeting at the White House was very limited. In January 1994, I read press stories about Madison Guaranty, which stated that some type of civil claims were being reviewed by the Resolution Trust Corporation.

I also specifically remember reading a letter from Senator D'Amato to Mr. Altman dated January 25, 1994, that referred to civil claims involving Madison, the statute of limitations and "tolling agreements." Senator D'Amato's letter noted that there was a deadline for action in late February or early March.

At that time, someone—I have no recollection as to who it may have been—explained to me that these terms related to normal RTC procedural actions relating to insolvent thrifts. I was told that the several claims were being reviewed under routine procedures within the RTC. I believe I also read this comment in Mr. Altman's February 1, 1994 response to Senator D'Amato.

I also understood that action on the substance of the civil claims might eventually be presented to the interim chief's executive officer for decision, although no proposed action was yet on Mr. Altman's desk, who was the interim CEO at that time.

This, then, brought up the question as to whether Mr. Altman should recuse himself from consideration of the matter even before it arrived. In late January or early February, Jean Hanson, the general counsel of Treasury, asked me for my views on whether Mr. Altman should recuse himself because of his friendship with the President. I told her that I had not undertaken any legal analysis to determine whether there was a legal requirement that he recuse, but that my own first reaction was that he should recuse himself. Ms. Hanson commented that she agreed with me.

Sometime after our first discussion, Ms. Hanson told me that she had discussed the recusal with Mr. Altman and that he was "leaning" toward recusal. In midafternoon of Wednesday, February 2, Ms. Hanson entered my office and said something like, "we're going over to the White House in a few minutes. Please look at these talking points." I remember scanning the points quickly and recognizing that they noted generally the same procedural points regarding the statute of limitations and tolling agreements that I had seen mentioned previously in the press and in Senator D'Amato's letter. The talking points did not mention anything about the substance of the Madison civil claims.

I believe that I said something aloud—something like, "this is OK, this is public information." I based my comment in general on information I had seen in the press and the congressional letters. I did not believe that this was nonpublic information. If it had been, I would have considered the matter further in terms of the Standards of Conduct, particularly section 5 CFR 2635.703, the Use of Nonpublic Information.

The final talking point indicated that Mr. Altman had already decided to recuse himself. I remember that Ms. Hanson had told me that he was leaning toward recusal, and I questioned whether he had made a final decision. I do not remember Ms. Hanson's response, if any.

My review of the talking points and the brief discussion with Ms. Hanson lasted no longer than 2 or 3 minutes, and my analysis centered on the public information issue. Based on the talking points I reviewed, I do not believe that the meeting violated any ethics regulation. The Office of Government Ethics has agreed with my conclusion.

Based on press comments, there seems to be some confusion about the issue of appearance of impropriety. For there to be an appearance that leads to a violation of the regulation, it is not enough that there is a public controversy or criticism, or even a public uproar. The standard, under the regulation, is whether a reasonable person with knowledge of the relevant facts would believe that the regulations have been violated.

According to the talking points I reviewed, the information to be discussed at the meeting was procedural and generally public. Moreover, to the best of my knowledge, no action was taken relating to the actual handling of the substance of the Madison civil claims themselves. Hence, I do not believe that a reasonable person

with knowledge of the relevant facts would believe that the ethics regulations were violated. Again, I am pleased that the Office of Government Ethics reached the same conclusion.

On February 3, Mr. Altman received a letter from Congressman Leach asking him to confer with "Treasury's General Counsel and Ethics Officers" to consider a recusal from the Madison matter. On the evening of February 2, or on February 3, Ms. Hanson told me that Mr. Nussbaum, the White House counsel, said that I, as the Treasury ethics lawyer, should talk to the senior ethics lawyer in his office, Beth Nolan, about the question of Mr. Altman's possible recusal.

I talked to Ms. Nolan on February 4 and informed her that Treasury, RTC, and OGE, the Office of Government Ethics, were going to undertake the legal analysis related to recusal. I also informed her that I was only going to discuss procedure with her and that I had no knowledge about any of the substantive issues related to Madison.

Ms. Nolan's notes indicate that we had a similar phone conversation on February 9. The only comment I remember Ms. Nolan making on this subject was that the conclusion could become a precedent for similar circumstances in the future.

Later, on February 4, I went to the Office of Government Ethics and had a similar conversation with Donald Campbell, the Deputy Director and Gary Davis, the general counsel. I showed them the letter from Congressman Leach. I noted again that I had no knowledge of the substance of the civil claims relating to Madison, explained the procedural framework and said that I had informed Ms. Nolan that we were going to analyze the legal issues with OGE and RTC ethics officials. OGE officials said they would work with Treasury and RTC on the question.

A few days later, Mr. Altman, Ms. Hanson, Ellen Kulka, RTC's general counsel, and Arthur Kusinski, RTC's senior ethics official, and I met with Mr. Altman to discuss the recusal issue. Mr. Altman directed us to ensure that our legal research and analysis was complete, thorough, and accurate.

In the following days, I worked on and concurred in the legal analysis and ethics opinion that was sent to Mr. Altman on February 18, 1994, by Mr. Kusinski. The Office of Government Ethics also concurred in that opinion. In essence, that opinion said that there was no legal requirement that Mr. Altman recuse himself from Madison-related matters. I sent Mr. Kusinski's memorandum with my own cover note reiterating my concurrence to Mr. Altman, on February 23, to ensure that there was no doubt about Treasury, RTC, and OGE consensus on this issue.

I believe that there is another source of confusion in the public discussion about these meetings. Do they present issues of "ethics" or questions of "judgment"? The word "unethical" has a connotation of something improper. The word "judgment" goes to the subjective reasoning power of human beings and possible human error, not improper behavior.

In my years as an ethics lawyer, I have always said to Federal employees that if they check with us about some proposed action and give us information about the context, and if we don't object

to the activity, then criticism for the ethics call should shift to the ethics lawyer.

For the February 2 meeting talking points, that ethics lawyer is me. I had an opportunity to object to the meeting, but didn't do so. I didn't object because there was nothing objectionable. It is not only unfair, but inaccurate to criticize Mr. Altman or Ms. Hanson for doing something unethical in relation to the February meeting. That is my responsibility.

That leaves the issue of judgment. As I noted before, I suggest that this be analyzed as a question of human reasoning power, rather than one of improper behavior.

Finally, one more comment. In my experience, ethics issues arise all the time in Federal agencies, both as considerations in decision-making and in connection with financial disclosure and other requirements applicable to officials appointed by the President. Secretary Bentsen introduced me to his new staff on the morning of January 22, 1993, and turned that first staff meeting over to me for a 90-minute seminar on government ethics. The Secretary made it clear that ethical considerations were a matter of great importance for him.

Based on my frequent interaction with the senior officials at Treasury for the last 18 months, I believe that those officials have worked hard to conform to the many complex ethics rules applicable to senior Federal officials. I have the highest regard for their ability, integrity, and professionalism.

Thank you, Mr. Chairman, I will be pleased to respond to any questions from members of the committee.

[The prepared statement of Mr. Foreman can be found in the appendix.]

The CHAIRMAN. Thank you, Mr. Foreman.

Mr. Steiner, would you please rise and raise your right hand.

[Witness sworn.]

TESTIMONY OF JOSHUA STEINER, CHIEF OF STAFF, U.S. DEPARTMENT OF THE TREASURY

Mr. STEINER. Mr. Chairman, Congressman Leach, members of this committee, my name is Joshua Steiner, and I serve as the Chief of Staff at the Department of the Treasury. Before joining the Treasury Department, I was executive assistant to Timothy Healy, the president of the New York Public Library.

I am here today to answer your questions and help clarify any outstanding issues concerning contacts between the Treasury Department and the White House on the Resolution Trust Corporation's investigation of Madison Guaranty. I have cooperated fully with all investigations into this matter, including those conducted by Mr. Fiske, the Office of Government Ethics, and congressional committees.

Several members of this committee have commented on my personal diary, and if I might, I would like to make one brief point about it.

I started keeping this diary nearly 6 years ago. I would write in it fairly infrequently, sometimes after 2 weeks; sometimes 6 weeks would go by before I made an entry. Indeed, some of the entries

of interest to this committee describe events that occurred nearly a month before I wrote about them.

I made no effort to check the accuracy of my diary because this was never intended to be a precise narrative or a verbatim act of what took place. At times it included my impressions of meetings that I did not even attend. It was, more than anything, a way to reflect on events and draw lessons from my personal and professional experiences.

Today, you will ask me questions under oath, and I hope my answers will clarify the entries I made in my diary. Since I first made these entries, I have had a chance to reflect about precisely what I know. I wish that my diary was more accurate, but I take my responsibility to this committee very seriously, and I feel obligated to present the facts as truthfully as I possibly can.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Steiner can be found in the appendix.]

The CHAIRMAN. Thank you very much, Mr. Steiner.

Mr. DeVore, will you please stand.

[Witness sworn.]

TESTIMONY OF JACK DeVORE, JR., FORMER PRESS SECRETARY, U.S. DEPARTMENT OF THE TREASURY

Mr. DEVORE. Mr. Chairman, I have no opening statement.

The CHAIRMAN. I want to point out that this panel took no more than 40 minutes in its presentation. I believe that it was to the point, very well and succinctly stated, and I am going to yield the remaining portion of my 5 minutes to Mr. Neal.

Mr. NEAL. Thank you, Mr. Chairman. We have been over the last several days, over many, many hours, in the Senate and here in the House, discussing essentially two issues: Whether or not Mr. Altman should have recused himself sooner, earlier than he did; and whether or not these contacts between the White House and the Treasury were appropriate. And I want to try to focus in on this first issue just a minute, and I want to direct the question to Mr. Foreman.

Mr. Foreman, you have looked at this question very carefully, as I understand it. You are the ethics officer of the Treasury and you have looked at this question of whether or not Mr. Altman should have recused himself. And you have explored whether or not there was any ethical problem with this, any legal problem with this and so on; isn't that correct?

Mr. FOREMAN. Yes, sir.

Mr. NEAL. Let me just—before I get you to speak to this, which I want you to do, I want you to tell me how you came to arrive at your conclusion that there was no ethical or legal problem. How about doing that? Just—and if you can as succinctly as you can, tell me how you arrived at that conclusion.

Mr. FOREMAN. Sir, particularly, in discussions with the Office of Government Ethics and Mr. Kusinski, the three offices quickly centered on the question that was really brought out.

The question of recusal had to do with Mr. Altman's friendship with the President. He was not in any financial partnership or other financial relationship with the President. He was not related

to the President. There were no other points under the standards of conduct that might be considered a covered relationship, so we quickly centered on the question of whether a friendship would, in and of itself, be a covered relationship that would lead to a requirement that Mr. Altman would have to recuse himself.

And, of course—well, succinctly, that had been considered by the Office of Government Ethics as a possible government relationship in previous years; but it was decided in the end, I think, that it was impossible to enforce a regulation that dealt with friendship as a conflict of interest, for many, many reasons.

Mr. NEAL. And if you go beyond that, that was the only question that then would raise any question at all about the ethical problems?

Mr. FOREMAN. Yes, sir, although we looked at appearances of impropriety. We looked at other points that Congressman Leach has brought up in his letter as well. And it seemed in our situation to come back to the covered relationship. And as a legal, ethical matter, then, it was not a covered relationship—that is, a friendship—and, therefore, there was no legal requirement that he had to recuse himself.

Mr. NEAL. And you found no ethical problem whatsoever?

Mr. FOREMAN. Well, it always left the question then of judgment, but under the way that the standards of conduct work, it then becomes a question of discretionary call for the official with advice from the ethics officials.

Mr. NEAL. Thank you. As I understand it, you were named to your position by President Bush.

Mr. FOREMAN. Well, it was a secretarial appointment in the Bush administration.

Mr. NEAL. Under a Republican administration.

Mr. FOREMAN. Under a Republican—

Mr. NEAL. Are you a Republican?

Mr. FOREMAN. Yes, I am.

Mr. NEAL. I think this is interesting because we now have a situation where the Office of Government Ethics, which is headed by Republicans, we have a conclusion by Mr. Fiske, who has impeccable Republican credentials, we have you, Mr. Foreman, a Republican, all coming to the conclusion that there is no ethical, no legal violation.

You know, I just don't see how we could get a stronger—I mean, I don't mean to attribute any special virtue to all these Republicans, but I am just trying to say that I don't see how anyone can question the authority here. I mean, you see—I tell you something interesting is going on.

The CHAIRMAN. The time of the gentleman has expired.

Mr. NEAL. I will come back to it later on.

The CHAIRMAN. I understand that Mr. Ridge is to be recognized first because he has to leave.

Mr. Ridge.

Mr. RIDGE. Thank you, Mr. Chairman. Thank you for the courtesy.

One of the concerns I have as a member of this committee, obviously, is the appearance, some would say, and I think the actual politicalization of the RTC. We struggled with that, the creation of

that entity for a long, long time. There was a lot of controversy, a lot of sweat, some tears. It was a difficult task for this committee and this Congress to engage in, but a very, very important task. So I have been concerned throughout the course of these hearings with some of the things that have been said and some of the influences that appeared to have been exerted on the operation of the RTC.

And so you understand where I am coming from, Mr. Steiner, when I ask you about your reference that Ellen Kulka should be fired for hiring the Stevens law firm, you could understand, well, you are the Chief of Staff to the Secretary of the Treasury maintaining the independence of the RTC, and that agency is something that we feel, Republicans and Democrats on this side, is very, very important. Do you recall making that statement?

Mr. STEINER. No, I do not, Congressman.

Mr. RIDGE. So your recollection would differ from others in this public discussion of the events surrounding that; is that correct?

Mr. STEINER. I have no recollection of making that statement.

Mr. RIDGE. Do you recall any discussion with any of your colleagues, either at Treasury or people you knew at the White House, with regard to counsel—with regard to Attorney Kulka and her hiring of the Stevens law firm, any discussion, do you recall?

Mr. STEINER. I recall asking, I believe, either Ms. Hanson or Ms. Gross, the procedures by which Mr. Stevens was hired. It is possible in the course of that conversation Ms. Kulka came up, but I do not recall discussing her specifically, no, sir.

Mr. RIDGE. Would it have been your concern, since it was a matter of discussion for you, that there was some procedure had been violated in the acquisition of their services? Did you feel that the RTC had violated a standard procedure of any kind?

Mr. STEINER. I am not familiar with the RTC hiring practices. I will say, Congressman, that I was surprised that Mr. Stevens had been hired.

Mr. RIDGE. And did you express that concern to anyone? Can you recollect that today?

Mr. STEINER. I don't recall expressing that concern, although I may have when I heard that he had been hired.

Mr. RIDGE. Do you recall making any statements to anyone concerning or having a discussion with anyone concerning the moving of the civil claim from RTC to Special Counsel Mr. Fiske?

Mr. STEINER. I recall one conversation on that subject, yes, sir.

Mr. RIDGE. And would you review for us today the content of the conversation and with whom you had it?

Mr. STEINER. As you might imagine, Congressman, there were a number of discussions on the Madison matter and they have become somewhat compressed in my memory so I can't recall all the participants in that meeting. They may have included Mr. Altman, Ms. Hanson, and the others I am not certain of. There may have been other Treasury staff who were involved in ongoing discussions on the subject.

To the best of my recollection, I recall that at the time there were concerns or allegations being made about the politicalization of the RTC's handling of the Madison matter.

Mr. RIDGE. Correct.

Mr. STEINER. And it was my belief at the time that we should consider the possibility that one way to avoid any allegations about improper handling of this matter was to turn it over to the independent counsel who, to my way of thinking, had a clear reputation for independence.

Mr. RIDGE. Was this an initiative you undertook yourself? Were you given any direction or counsel to initiate it? Do you recall that?

Mr. STEINER. I do not recall how the subject came up, Congressman.

Mr. RIDGE. Do you recall having any discussion with the Secretary of the Treasury or anybody in the White House specifically about this matter?

Mr. STEINER. No, I do not, Congressman.

Mr. RIDGE. You do recall generally having the discussion about it, but you don't recall with whom you had the discussion; is that a fair statement?

Mr. STEINER. As I said, Congressman, to the best of my recollection, it was a conversation that took place at the Treasury Department and I believe it took place in Mr. Altman's office, but I cannot recall precisely who attended that meeting.

Mr. RIDGE. I thank you, Mr. Steiner.

The CHAIRMAN. The time of the gentleman has expired.

Mr. Neal.

Mr. NEAL. Thank you, Mr. Chairman.

I would like to complete my thought on this, if I can. I want to say, first of all, that I tell you, I have the greatest respect for my—all of my colleagues in the House of Representatives and the Senate. And I have great respect for my Republican colleagues. And I try not to be partisan when it comes to issues outside the campaigns. And I will say I have had a lot of tough campaigns and I am as partisan as the next person when it comes to those campaigns, but when it comes to the work of this body, it seems to me that what we ought to do is get out the truth and come to the best possible solutions that we can without an excessive degree of partisanship.

And I must say that I am in this instance very troubled because I have come to the conclusion at this stage in the hearings—and I realize that we have not finished these hearings and I certainly intend to pay careful attention to them from now on—but I have come to the conclusion at this stage in the hearing that this is purely a partisan effort to damage the administration, that there is no evidence of any criminal activity, no evidence of any unethical activity whatsoever.

And I find that my conclusions, very interestingly, are based on conclusions largely of Republicans. This is the fascinating thing to me.

I just have to point out again, Mr. Fiske, an impeccable Republican, comes to this conclusion, and tells us. Mr. Cutler is primarily a Democrat but he was named by President Bush, a Republican President, to an ethics panel, now the Office of Government Ethics, headed by Republicans. Now Mr. Foreman tells us he is a Republican, he comes to this conclusion. I just find it quite astounding and quite overwhelming in its import that Republican after Repub-

lican who investigates this matter comes to the conclusion that there is no illegality and no unethical behavior.

Now, I have a question for my friend, Mr. Leach. If I may, Mr. Leach. In Mr. Leach's opening statement today, he says that there was an effort to block criminal referrals, and that he has some evidence of this.

Now, he attaches some evidence that he says is evidence of this, which I have not had chance to review. But I would like to know from my distinguished friend, does he have other evidence other than this little colloquy that he has attached?

If he does, I just think we ought to have it available to us so that we could see it and examine it also.

Mr. LEACH. I would like to provide for the gentleman, but it is fully redacted, the legal analysis that was done against the referral. We have a cover sheet for, but we don't have the 13-page analysis that was done.

The evidence that exists, however, that I reference, is the fact that a very critical analysis was prepared, and second, that there were conversations between Washington and the regional office. And—

Mr. NEAL. That is the evidence?

Mr. LEACH. Well, there are references to the fact that analysis was prepared totally objecting to this particular set of—

Mr. NEAL. May I ask my friend to please supply me with all of the evidence so that we might have a chance to review it over here?

Mr. LEACH. I think, to respond to the gentleman, you will have to ask that from the administration. If they want to make that a part of the record, they may.

What I have simply suggested is that a major effort was undertaken to debunk criminal referrals. And I would go further. We have the statement in the interview notes of Mr. Dudine that professionals in the Department reviewed the referrals and found that they met a reasonable standard, but unprecedented in the knowledge of anything in the RTC, that not only were the referrals sent to the Justice Department, but so were the objections produced by the PLS. And so both were sent; never done before. And what you have here makes it very clear to the gentleman.

Mr. NEAL. I am going to run out of time. What I am trying to find out from my friend, could he make that evidence, he calls it, available to us?

Mr. LEACH. I have made available the circumstances by which the consultations—

Mr. NEAL. The circumstances? I don't believe my friend has anything that he can show us that will support this very serious charge.

Mr. LEACH. Mr. Chairman, I ask unanimous consent to place in the record two things. One, the cover memo that indicates what is believed to be and what I have had affirmed to me by sources within the RTC a memo that has been fully redacted that objects to referrals.

I would also ask unanimous consent to place in the record the interview notes of Mr. Dudine, which indicate that this particular objecting memorandum appears to have been sent to the Justice Department with the criminal referrals. The background and the

context, let me stress to you, is that of the distinction between a criminal investigative unit, say, of a police department, and let's say, a county attorney's office; what has occurred here is that the police's own legal office has objected to the police department's recommendation that criminal referrals be advanced. And that should have been the Justice Department's decisionmaking, not the RTC legal office's. What this administration did was confuse the two functions. And it was most——

Mr. NEAL. Reserving the right to object, I am sorry, I can't follow this. I would like to have the written document so that I can see—does the gentleman have some notes from the people who created redacted information?

Mr. LEACH. I have talked with people that have read the full redacted document.

Mr. NEAL. Do you have copies of those conversations so that we may see, so that we might have the same information?

Mr. LEACH. You are free to ask anyone, anybody on this panel or subsequent panel whether or not this exists. In fact, you can ask Ms. Hanson right now. It is your time. And you ask her, was an objecting legal analysis done to the criminal referrals and was it sent to the U.S. Department of Justice? Ask her.

The CHAIRMAN. Is there objection to the unanimous consent request?

Mr. NEAL. Further reserving the right to object, Mr. Chairman, I am not going to prolong this. The distinguished gentleman from Iowa will have his own time to ask Ms. Hanson whatever he wants.

My question is this. I think if there are going to be these serious charges made, that we ought to have copies of any evidence, any documents, any phone conversations, anything that the gentleman has on which he bases these charges. And I don't see anything. If there is something there, it seems only fair to me that we are able to see them.

Now, I would like to see them, right now. Where are they?

Mr. LEACH. If the gentleman will yield.

Mr. NEAL. I will yield.

Mr. LEACH. If you will allow me to ask Ms. Hanson a question, I am delighted to.

Mr. NEAL. That is not my question. I want to see—the gentleman has made a charge that criminal referrals—that there was an effort made to block criminal referrals and I would like to see the evidence for that. Well, I don't see it.

The CHAIRMAN. Is there any objection to the gentleman's unanimous consent request that it be placed in the record?

Mr. NEAL. Reserving the right to object, what is it that we are going to put in the record now? Is it something that we can't see?

Mr. LEACH. We are going to put in the record a cover sheet about the existence of a particular memorandum. We are also going to put in the record interview notes with a senior RTC official that indicates that this memorandum appears to have been sent to the Department of Justice at the same time that the criminal referrals were sent.

Mr. NEAL. I would like to see the documents before I agree that they be put in the record.

Mr. LEACH. The gentleman has asked for evidence but he doesn't want—

Mr. NEAL. I would like to see it, then I would be happy not to object to them being put in the record.

The CHAIRMAN. Does the gentleman object?

Mr. NEAL. I would like to object until I see these documents because I don't see them.

Mr. MCCANDLESS. Point of order.

The CHAIRMAN. State your point of order.

Mr. MCCANDLESS. Is it my understanding that the gentleman is agreeable to the documents being placed in the record if, after he looked at them, they are as Mr. Leach has indicated?

The CHAIRMAN. Well, that is not a point of order. The gentleman can ask Mr. Neal in private without interrupting the processes.

So let's continue, regular order. And we go to Mr. Leach.

Mr. LEACH. Well, Mr. Chairman, I had not intended to take any time at this particular moment, but I do think it appropriate to ask Ms. Hanson, are you aware that a critique of—a legal critique of the referrals was developed within the RTC?

Ms. HANSON. It is my understanding—I learned it at one point, that it is customary that after an investigation has been completed, that it is reviewed by the lawyers. Whether it is standard practice for a memo to be developed or not, I don't know.

Mr. LEACH. Are you aware that one was developed in this particular circumstance?

Ms. HANSON. Yes, sir, I was. But what it says is that—excuse me, let me say, I spoke about this memo briefly with Ellen Kulka in January. And—but I don't know the substance of the memo. And I have no idea whether it was sent to the Department of Justice.

Mr. LEACH. Do you recall a meeting with the acting general counsel of the RTC, Mr. Glion Curtis?

Ms. HANSON. I am having trouble hearing you, sir.

Mr. LEACH. Do you recall a meeting with the acting general counsel of the RTC, Glion Curtis on October 4?

Ms. HANSON. On October 4?

Mr. LEACH. Yes.

Ms. HANSON. No, sir, not unless you can give me more particulars.

Mr. LEACH. Mr. Curtis has under sworn testimony indicated that he discussed the existence of this memo with you and that it was shortly thereafter transferred to you.

And I would ask unanimous consent—well, actually, part of that particular testimony was placed under unanimous consent in the record—accordingly, I would like to have the full testimony placed under unanimous consent in the record.

I also would ask unanimous consent that the interview notes at that time with Mr. Dudine be placed in the record which indicate, among other things, that this particular memorandum was sent to the Department of Justice and to Little Rock at the same time as the referrals, which as far as I think is unprecedented.

Let me ask Ms. Hanson, has that ever been done in the history of RTC?

Ms. HANSON. Sir, first, I have no recollection of ever discussing this with Glion Curtis. I have never seen a memo on this subject.

And I haven't any idea whether a memo was sent to the Department of Justice and whether it is or is not standard practice. I, certainly, have no idea.

Mr. NEAL. Reserving the right to object. I am reserving the right to object because I don't want to see something put in the record implying that it is proof of some criminal activity when we have not had a chance to look at it and make an independent determination of whether or not it has any significance at all or not.

I mean, I think the gentleman is asking that we put something in the record, he is claiming that it demonstrates some criminal activity, and we don't know what it is. I just don't think that is fair to the process. I think that leaves an impression it is not accurate.

Therefore, I object until we can see the document, and I must object.

Mr. LEACH. I cannot understand the gentleman wanting evidence but not wanting it. But let me stress to the gentleman that I have placed in the record two documents that indicate a proof of existence of a circumstance.

I will also read into the record the sworn testimony of Mr. Glion Curtis, who said, and he is referring to a particular meeting in October with Ms. Hanson: "I made a point of bringing with me a copy of the legal opinion on the criminal matters and sharing that with Ms. Hanson and John Bowman."

"Question: So you just brought one copy and you gave copies to them?

"Answer: I showed them the copy I had and they may have made a copy from that. I don't recall."

But the point I would simply like to make is that this analysis occurred. Such analysis had never occurred at least with regard to the Kansas City RTC at any prior point in time. In addition to this analysis occurring, in consultation with Washington RTC, there was an effort to delay the referrals for 3 weeks. The decision was to make it 1 week—I am not saying with Ms. Hanson, I am saying with Mr. Glion Curtis—who was the then-acting general counsel of the RTC.

Ms. HANSON. I have no knowledge of that, sir.

Mr. LEACH. That may be the case, although there will be a distinction between your sworn testimony today and Mr. Curtis' sworn testimony.

Ms. HANSON. I was shown a memorandum by the IG during the IG investigation, and they asked me the same questions that you have asked me today, and I said the same thing that I told you today.

Mr. LEACH. To clarify what you said earlier, you know of the existence of this memorandum. If the IG showed it to you, then you can certify to Mr. Neal that the memorandum exists.

Ms. HANSON. The IG showed me a memorandum. I didn't read it. I had never seen it before and I told the IG that was my recollection.

Mr. ORTON. I would ask for unanimous consent to proceed for 30 seconds out of order to ask Mr. Leach a question about the documents that I think he is talking about and proposing to insert into the record.

The CHAIRMAN. The Chair doesn't want to set a precedent, Mr. Orton.

Mr. ORTON. I was seeking to reserve the right to object to his unanimous consent request, to inquire of him.

The CHAIRMAN. We heard an objection, so that is a decided issue. And I would ask that we proceed in regular order.

Mr. Frank.

Mr. FRANK. First, I want to underline a very important point. There has been a lot of dispute about who said what, none of which is of any great significance in the sense that there have been disagreements about recollections about things in which it seems to me whatever recollection you are talking about, nothing bad happened. People have disagreed with each other over whether the meetings happened, but in fact nothing bad happened in the meeting. So whatever version you take, it would be no problem.

People do have disagreements over reconstruction of the facts, but under no version of the facts did anybody interfere with the investigation, including this criminal referral which has been made and is now in the hands of Mr. Fiske, where presumably it is safe.

The next point I want to talk about is the statute of limitations. Mr. Leach said earlier that since Mr. Altman had known in May or early in 1993 about Madison issues, when he wrote a letter saying the administration did not want to see an extension of the statute of limitations, presumably he was motivated by that. If that is the case, Mr. Altman gets credit for being a zealous advocate of extending the statute of limitations.

After Mr. Altman said the administration didn't want the statute extended, you will recall that the Altman-McCollum position—and Frank, because I was on the same side with them—others said, No, let's extend it. That would be the Leach, Kennedy, Metzenbaum position and Roukema, and after the debate, the Leach, Kennedy, Metzenbaum, Roukema position prevailed over the Frank-McCollum mostly Republican position and it was decided that the statute would be extended.

No one contested that any further. And from the summer on, Mr. Altman was the most zealous advocate in Washington, DC of getting the RTC bill through, which not only extended the statute of limitations, but revived a dead one. It had died in February 1992. And Mr. Altman was then acting from the summer on very zealously to get it extended.

So if, in fact, Mr. Leach is correct, and the knowledge that this somehow affected Madison may have played a part, Mr. Altman gets credit for being a very zealous advocate of extending the statute of limitations fully knowing that it would affect that issue.

The next question on Mr. Stevens, when was he hired—at Pillsbury, Madison, and Sutro—do you know when he was hired?

Ms. HANSON. No, sir, I don't.

Mr. FRANK. I am told it was February 7, which I think is interesting because none of you knew that it was after that famous February 2 meeting.

After Mr. Altman was persuaded not to recuse himself temporarily, what happened? Mr. Stevens was hired.

That, I think, goes to that point once again. After the September 29 meeting, when you gave the information and somebody may or

may not have asked you to, and nothing turns on that that I can see, we extended the statute of limitations. We didn't extend it. We revived a dead statute of limitations and applied it to Madison.

And then on February 2, when the question was, what should Mr. Altman do, it had no effect on the statute of limitations which we had extended at his urging and was about to congressionally extend again, and it certainly didn't have any bearing on the RTC investigation since the only thing that happened there after the February 2 meeting was the hiring of Mr. Stevens.

Now, have I lost anything in that chronology? If not, let me just address one word, if I can.

Mr. Steiner, it is a little bit personal. Having your diary put out publicly is apparently embarrassing and you appear to be—I know from embarrassment. I had a lot more than my diary out there. You live through it. I can sympathize with you. The only difference between you and me is that you were writing your girlfriend, and I was older when mine happened. But don't worry about it. It is a small thing. You outlive embarrassment and I hope you will not allow this to seriously interfere with your work.

Thank you, Mr. Chairman.

The CHAIRMAN. The gentleman yields back the balance of his time.

The Chair has just been advised that Mr. DeVore has an airline schedule that he must meet, and I am going to ask this question. How many members intended to direct questions of Mr. DeVore? Well, we can stay within his absolute departure time.

Mr. LEACH. Mr. Chairman, now and again, for the Chairman of the Federal Reserve Board of the United States, for the Secretary of the Treasury of the United States, accommodation for transportation is honored and other commitments. I suspect this is difficult for Mr. DeVore, but I am not sure he fits the category of a Cabinet-level officer.

I have no questions for Mr. DeVore. I am just making that observation.

The CHAIRMAN. Well, I was just inquiring; however, it is obvious that—

Mr. LEACH. And I would also, say, Mr. Chairman, he is the only witness that hasn't made himself available for interviews; and I suspect this is a very sincere request, but I also suspect Mr. DeVore has excellent legal counsel.

Mr. DEVORE. Mr. Chairman, Mr. Chairman.

Mr. FRANK. Mr. Chairman. I would urge—after all these years, I don't think one more night in Washington is going to tarnish Mr. DeVore any more, and if there is any way he could do it, I would urge it.

Mr. DEVORE. Mr. Chairman, I did make myself available for interviews, but the staffers for the committee were unable to keep to the time we had agreed on.

The CHAIRMAN. The Chair will use discretion and announce that those members seeking to question Mr. DeVore, that is in due order, and then I will ask if there is any other member that finds it necessary to address questions of Mr. DeVore, other than in writing.

Of course, we can always do that and try to honor his obviously imperative need to catch this airline.

If there is objection, the Chair will do the next best thing.

Mr. KENNEDY. Mr. Chairman, I would just request to ask the other members that want to go forward and ask their questions of Mr. DeVore, if they could consider asking those questions in writing. If it is something that they feel is going to be earth-shattering in nature, that they really want to get out at the moment, I certainly would not object; but if they felt that these were not of that order of magnitude, I would suggest that if we are going to provide him with the opportunity to catch his plane, that we might ask the members to submit their questions in writing and take it from there.

Mr. LEACH. Mr. Chairman, I have never met Mr. DeVore, I have no questions for Mr. DeVore, but the precedent of this request is a troubling one. And I would hope the committee would stick to its regular order, even though it may be inconvenient for Mr. DeVore, and for that I apologize.

The CHAIRMAN. The Chair can see that under the circumstances, Mr. DeVore—

Mr. DEVORE. I will accommodate the committee, Mr. Chairman.

The CHAIRMAN. I deeply appreciate that. And perhaps we can save time in the long run and try to do the same thing.

Mr. McCollum.

Mr. MCCOLLUM. Thank you, Mr. Chairman.

Ms. HANSON, you have in front of you, I believe, now, a copy of a blanked-out page of your diary; almost all of it is whited out or redacted. Apparently, there is an entry for October 15, 1993 and a reference number 15 down there to Glion—I presume Glion Curtis; and then a little statement over to the side, referrals did go out.

Does this in any way refresh your recollection with regard to the memorandum issue that Mr. Leach was referring to, or do you know why these entries are there? I don't know why we have these entries if everything else was blanked out.

Ms. HANSON. That has absolutely nothing to do with the memorandum that Congressman Leach asked me about; and as I stated, I never saw that memorandum. I know I was shown it by the IG.

Mr. MCCOLLUM. What does it have to do with?

Ms. HANSON. It is unrelated.

Mr. MCCOLLUM. What does the memorandum entry here have to do with?

Ms. HANSON. This is a call sheet. This is either a telephone or a meeting call sheet. It is my daily log.

Mr. MCCOLLUM. It shows you spoke to Glion Curtis on that date.

Ms. HANSON. I assume I spoke with Glion Curtis on this date.

Mr. MCCOLLUM. I wanted to take you back to one broader question.

To the best of your knowledge, from the time you first learned about the criminal referrals that we have been discussing so much, back in September, when Mr. Roelle and you had the conversation, to the present time, have you or Mr. Altman or anyone else at the Treasury Department or the White House, again to your knowl-

edge, even spoken by phone or in person with Attorney General Reno regarding these criminal referrals?

Ms. HANSON. I certainly have not and to my knowledge, no one else has either.

Mr. MCCOLLUM. With regard to your conversation with Mr. Roelle on September 27, from the notes that we have here, from your interviews with our staff, it is indicated that Roelle briefly summarized each of the criminal referrals to you on that occasion; is that correct?

Ms. HANSON. That is correct.

Mr. MCCOLLUM. And in that summary, it says in our notes that Roelle indicated that all of the Madison referrals related to Jim McDougal. Senator Fulbright was named in a conspiracy to divert funds and that and McDougal and the Clinton campaign of 1985 were also mentioned.

Is this a correct representation of what you told our staff of what Mr. Roelle related to you about the nature of the criminal referrals?

Ms. HANSON. That is not quite my recollection, sir.

Mr. MCCOLLUM. Would you please tell us what it is?

Ms. HANSON. What I recall Mr. Roelle told me was that, as he summarized each of the referrals, he told me to the best of my recollection, that each one involved Mr. McDougal and some other names. Fulbright was named in one, included in one; Jim Guy Tucker was included in one; and one of the referrals related to a conspiracy to divert funds and the coconspirators were Mr. McDougal, the Clinton campaign of, I believe, 1985, and someone named Peacock.

Mr. MCCOLLUM. Did Mr. Roelle suggest to you that the contents of this, or what he gave to you or told you about these criminal referrals, should be kept confidential?

Ms. HANSON. No, sir.

Mr. MCCOLLUM. Did you inform Mr. Altman of the discussion you had with Mr. Roelle and the general summary of each of these referrals when you talked to Mr. Altman after that first occasion?

Ms. HANSON. Yes, sir.

Mr. MCCOLLUM. And so he, in essence, had as much knowledge of the criminal referrals as you had from Mr. Roelle; is that correct?

Ms. HANSON. Yes, sir.

Mr. MCCOLLUM. Did it ever occur to you that telling him more than simply there were criminal referrals in some way might be a problem with regard to precedent in terms of criminal referrals themselves?

Ms. HANSON. We are talking about Mr. Altman? I was given this information by Mr. Roelle to convey to Mr. Altman. Mr. Altman was the interim CEO of the RTC. That is why I was given the information, to give it to him.

Mr. MCCOLLUM. I understand, but the problem that I have got with all of this—and I have had it from day one, and it is not derogatory to you personally; but nobody, including yourself or Mr. Nussbaum or anybody at the White House, seemed a bit concerned about the fact that this is not the kind of information, no matter what press leaks might be anticipated, that you would ever give to

somebody who might be involved in a campaign for Governor or mayor. And because the President of the United States is involved in—because the campaign for the Presidency or the Governor's campaign in 1985 might have been involved and there might have to be press questions answered doesn't seem to me to make any sense at all, that we should be setting precedent that could have a chilling effect on those who work at RTC and other institutions of government, including the Justice Department, who are going to respond naturally to the concern that they could find—any criminal investigation they are referring could be looked upon unfavorably as somebody who could be named as a witness higher up than them.

It is a terrible precedent. It might not be a technical ethical violation, but it is a terrible policy problem that this committee has a responsibility to point out.

Ms. HANSON. May I respond?

The CHAIRMAN. Yes.

Ms. HANSON. It was the policy—understanding that Mr. Altman would be advised if there were going to be press stories, imminent press stories relating to people of national prominence or corporations of national prominence, so that he would be able to intelligently respond to press questions.

He was the CEO of the RTC. That was its policy.

Mr. MCCOLLUM. But you never cautioned him about saying anything about this to the White House or anybody else?

The CHAIRMAN. The time of the gentleman has expired.

Ms. HANSON. May I finish, sir?

Mr. MCCOLLUM. If the chairman says so.

The CHAIRMAN. Well, she has been given an opportunity to reply, and you have interrupted her. So you are out of order.

The gentlelady is recognized to continue her answer.

Ms. HANSON. Thank you, Mr. Chairman.

When Mr. Roelle began his conversation with me, he made reference to Mr. Altman. So, number one, this call was unsolicited; and number two, it was clear to me, as the call began, that he was authorized by Mr. Altman to convey this information to me.

Mr. Altman had plenty of authority, plenty of statutory authority to give me the authorization to take this information. I gave the information to Mr. Altman. And I was tasked to give it to Mr. Nussbaum. It was completely appropriate for a governmental interest, a proper governmental purpose to deal with imminent press leaks, which, in fact, did develop.

Mr. MCCOLLUM. That is your opinion, but it is not mine.

The CHAIRMAN. Regular order. The gentleman is out of order.

Mr. Vento.

Mr. VENTO. Thank you, Mr. Chairman. Ms. Hanson, I note there is a Minnesota connection, but unfortunately, we have not met. Obviously, I am always pleased to see someone from our area and our State have the type of role and responsibility that you have.

In the conversation that you had with Mr. Roelle, he was obviously seeking to speak with Mr. Altman. Did you in fact ask him to give you or say that you wanted to convey the message to Mr. Altman?

Ms. HANSON. It was clear to me when he called me that he had either spoken with Mr. Altman or his call from Mr. Altman had been conveyed to me. I have subsequently learned that he, in fact, spoke with Mr. Altman initially and Mr. Altman asked him to follow up, to finish the conversation with me. And so he did that, and then I conveyed the information to Mr. Altman.

Mr. VENTO. You served in this role, I might say incidentally, there has always been a strong role in the Treasury Department with the RTC, and Mr. John Robson, who was the predecessor there, practically ran it. I and others objected to it. That is why David Kearney left the RTC. So the Treasury has always had a responsible role there, even in the absence of Mr. Altman or someone in his role being the CEO.

Now, there is obviously a lot of debate, about how much separation there should be here, but that has not been the history of it. Half of the time, there has not been a head of the RTC. I have attempted several times to talk Mr. Leach into taking that job, but he has declined.

It is interesting to me, someone who has watched this amble along. The point is, did you play a special role in terms of assisting Mr. Altman with the RTC responsibilities on a regular basis?

Ms. HANSON. During the time that he was the interim CEO?

During the time that he was the interim CEO, there were a number of Treasury officials that he called upon from time to time to assist him, because he physically didn't have enough hours in the day to do all that was necessary.

Mr. VENTO. My observation from where I am here in terms of the role that we have played is that Treasury and Treasury officials have been very much involved in the day-to-day operations. We have tried, in fact, through the Reorganization Act that I wrote with Senator Riegle to separate that out, to get autonomy for the corporation.

The issue here is, did Mr. Roelle share with you any concerns about the fact that there were going to be leaks? Did you suggest to him that there ought to be something done about preventing any leaking that was going to occur in terms of this information, such as these conditional referrals?

Ms. HANSON. Mr. Roelle made it clear to me in substance—I don't recall the exact words—that as soon as these criminal referrals arrived in Washington, it would be leaked. It was common knowledge that information leaked from the RTC all the time. I assumed that if Mr. Roelle felt that he was able to control that, he would have.

Mr. VENTO. Did you take notes of this conversation with Mr. Roelle?

Ms. HANSON. I did sir.

Mr. VENTO. Are those notes available? Were they copied or used for the purpose of the special counsel or other investigations?

Ms. HANSON. I disposed of those notes in the ordinary course last fall, when I no longer needed them.

Mr. VENTO. There has been some suggestion that you may have or other people in the administration actually knew something about those criminal referrals, and you didn't tell to the press.

Do you plead guilty to that, Ms. Hanson?

Ms. HANSON. And—I am sorry.

Mr. VENTO. You did not tell it to the press?

Ms. HANSON. I did not tell it to the press, sir.

Mr. VENTO. In other words, they—in fact, someone implied they knew more than what the people in the administration know?

Mr. Steiner, I had a question. I was going through this diary, or your recollection of it, much of this information is not a result of direct experience and meetings that you were involved in; is that correct?

Mr. STEINER. That is correct.

Mr. VENTO. So you are repeating the impressions you had with talking to other individuals. You were not directly involved in any of the meetings; is that correct?

Mr. STEINER. That is correct, sir.

Mr. VENTO. How often did you write into this diary? Once a week? Once a day?

Mr. STEINER. Fairly infrequently, Congressman. Every 2 weeks, sometimes 6 weeks would go by.

Mr. VENTO. So, then, you were trying to summarize these points. I mean, we are obviously getting material here that only relates to these issues. Was there other substantial material that was not reflected in terms of what has been presented and utilized in this process of investigation and review?

I take it there is substantially other material from your diaries that is not represented. In other words, how substantive is your diary? How long is it? What is the breadth of it?

Mr. STEINER. My diary covers a breadth of topics, many of which I am glad were not turned over to this committee.

Mr. VENTO. Unfortunately, Mr. Frank pointed out he did not have any such redaction control.

Mr. STEINER. I can appreciate his situation.

Mr. VENTO. Thank you, Mr. Steiner. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, sir. Mrs. Roukema.

Mrs. ROUKEMA. Thank you, Mr. Chairman.

I want to address my time to Ms. Hanson here and I am concerned, Ms. Hanson, about the apparent discrepancy in Mr. Altman's testimony before the Senate. So I believe you have in front of you a document numbered X 000096. I think you have that in front of you, which is apparently—you should recognize it as the table of contents of the briefing material which was prepared for Mr. Altman for his testimony before the Senate on February 24, and some attachments which we will get to later, but you do recognize this?

Ms. HANSON. Yes, I do.

[The information referred to can be found in the appendix.]

Mrs. ROUKEMA. Yes. And did you help prepare both the topics and the proposed responses for this briefing? For these briefings?

Ms. HANSON. I did not prepare the topics. And I did some work on some of the responses.

Mrs. ROUKEMA. Who prepared—who worked with you on it?

Ms. HANSON. This document was created, to the best of my recollection, at the RTC, and—

Mrs. ROUKEMA. But you worked directly with them on it?

Ms. HANSON. I reviewed all of the questions and answers.

Mrs. ROUKEMA. You reviewed, that is what I wanted to know.

Ms. HANSON. And participated in drafting a couple.

Mrs. ROUKEMA. Would you turn to the documents numbered X 000112, 114, and 105. Both refer to contacts between Treasury officials and RTC and the White House, that is 112 and 105. In neither cases do these documents mention—by the way, before I ask you that, do you know who prepared the answers to those particular questions?

Ms. HANSON. One hundred and twelve and one hundred and five?

Mrs. ROUKEMA. Yes.

Ms. HANSON. One hundred and twelve, I don't recall.

Mrs. ROUKEMA. All right. Well, let me ask you the more general committee question. In neither cases do these documents mention the two fall meetings; namely, October 29 and October 14 that have been in such contention, even though you attended both those meetings. But they are not mentioned in these two documents, are they?

Ms. HANSON. They are not.

Mrs. ROUKEMA. No. Was there a reason why you and other briefers failed to reference these meetings?

Ms. HANSON. The preparation of the questions and answers for the Oversight Board hearing has to be understood in its context. It was prepared, these were prepared—

Mrs. ROUKEMA. These documents?

Ms. HANSON. These documents.

Mrs. ROUKEMA. Yes.

Ms. HANSON. And the other briefing materials as well, because there was a very large briefing book that was prepared. It was prepared over a very brief period of time, during the time that the principal concern and issue was the civil investigation that was under way by the RTC and the statute of limitations issue.

Mrs. ROUKEMA. But you are not getting to my question, which is, why did you fail to reference these meetings?

Ms. HANSON. I was getting to your question.

Mrs. ROUKEMA. All right, but we are limited on time here.

Ms. HANSON. The answer is that they were overlooked.

Mrs. ROUKEMA. Now, Mr. Chairman, here we get back to this lack of credulity. This is the same way we have gone through 3 or 4 days here, and as I said earlier to Mr. Altman, and I will have to say it to you as well, I cannot believe that educated, intelligent, experienced people such as yourself constantly come up with these answers that have no credibility when you get down to specifics.

Nobody seems to know anything about anything that is important.

Ms. HANSON. Could I—

Mrs. ROUKEMA. They have not seen any evil, they have not heard any evil, or spoken any evil.

Ms. HANSON. Can I respond?

Mrs. ROUKEMA. Yes, I would appreciate it.

Ms. HANSON. The Oversight Board—there had not been an Oversight Board hearing for a year. Oversight Board hearings are supposed to take place semiannually. There had not been an Oversight Board hearing for over a year. There was a new administration,

there was a tremendous amount that had gone on. Every effort was made, every effort—if I may finish—every effort was made to try to anticipate every question that was going to be asked, and——

Mrs. ROUKEMA. But Ms.——

Ms. HANSON. May I please finish?

Mrs. ROUKEMA. Do it quickly.

Ms. HANSON. And you cannot be 100 percent successful in that sort of endeavor, including this one, although—although we tried our best and we worked around the clock and we tried to think of everything that could possibly come up, we were not 100 percent successful.

Mrs. ROUKEMA. So you are telling this committee that although you were involved in all those, in both those discussions at the White House and perhaps others, but particularly those two discussions, and yet you did not give the correct answer to Mr. Altman in his briefing papers, and so Mr. Altman goes before the committee and says, no, there were no other meetings?

Ms. HANSON. Congresswoman.

Mrs. ROUKEMA. Yes.

Ms. HANSON. There was no answer, there was no answer to that question in the briefing materials. Because that question, the question was overlooked in preparing the briefing materials. It was an honest over—it was honestly overlooked. There was no intention—there was no——

Mrs. ROUKEMA. Following that, in the days and weeks——

Ms. HANSON. May I finish?

Mrs. ROUKEMA. To ever inform him.

The CHAIRMAN. The time of the gentlelady has expired.

Mrs. ROUKEMA. Go ahead, if the chairman allows, yes, go ahead, Ms. Hanson.

Ms. HANSON. There was no intention not to put that in here. It was simply overlooked in the preparation of the briefing, of the questions and answers.

Mrs. ROUKEMA. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you. Mr. Kennedy.

Mr. KENNEDY. Thank you, Mr. Chairman. I have about three, I think, fairly brief questions, that I would like to ask the members of the panel.

First of all, this is mostly directed at Ms. Hanson, but I think all four of you might answer it, which is, were there any other circumstances in your experience or in all your work on, in the various agencies that you are currently associated with, were there any other heads-up provided to the White House for any reason? On any other cases other than Madison or Whitewater? Ms. Hanson.

Ms. HANSON. I can't think of anything specifically as I sit here.

Mr. KENNEDY. Thank you. Mr. Foreman.

Mr. FOREMAN. Yes, quite a number that I have been involved in as a lawyer over the years. I have—I had responsibilities for legal work in Iran-Contra and BCCI and BNL and POW-MIA and October Surprise. All of which involved allegations, as I recollect, that could in some places include the President, the Vice President. In each of those circumstances, both at the State Department before

and at Treasury now we talked very much with the White House and White House counsel's office, sir.

Mr. KENNEDY. Thank you. I will come right back to you. Mr. Steiner.

Mr. STEINER. I can think of instances in armed forces area, specifically in the Customs Service, yes, sir.

Mr. KENNEDY. Anything to do with the RTC?

Mr. STEINER. Not that I can recall, no.

Mr. KENNEDY. Thank you. Mr. DeVore.

Mr. DEVORE. You are talking about any kinds of heads-up?

Mr. KENNEDY. Not in your circumstance, Mr. DeVore, but in any kind of—relating to any particular case the RTC specifically was working on?

Mr. DEVORE. None.

Mr. KENNEDY. None. Mr. Foreman, with regard to the other examples that you cited, were there other examples where you concluded that there was, in fact, unethical activities that took place either at the RTC or at the White House?

Mr. FOREMAN. I'm sorry if I confused my first answer to your question, sir. I wasn't sure that you limited that to the RTC or not.

Mr. KENNEDY. I didn't mean to.

Mr. FOREMAN. But as to this, no, in fact in all of those circumstance it was necessary to work very closely with the White House, and, in fact, in the Iran-Contra affair, the White House and the interagency groups worked quite closely with the Independent Counsel Judge Walsh for several years in that matter.

Mr. KENNEDY. And were you providing any role as an ethics officer with regard to any of those other jobs that you had?

Mr. FOREMAN. After 1989, yes, sir, but in—

Mr. KENNEDY. After 1989 you were always working at Treasury.

Mr. FOREMAN. State Department and Treasury. When I was in Treasury, I had the dual roles then of the senior ethics official as well as working in cooperation, actually, with members of this committee and other committees on the other matters I mentioned, BNL, BCCI, so forth.

Mr. KENNEDY. Did you ever recommend to an administration official not to be involved in what you considered to be an unethical activity? Under any circumstance?

Mr. FOREMAN. Oh, yes, sir. There have certainly been a number of occasions when I have advised people not to take an action, participate in an activity.

Mr. KENNEDY. And did you see circumstances where they went ahead and did those activities anyway?

Mr. FOREMAN. No, sir, I don't recollect a situation where after hearing my advice to not do something that an official then went ahead and actually carried out the activity when I told them that it was legally mandated. There have been situations where, similar to what we discussed here, where there was no legal mandate; it then became a question of discretion, and people might ask my opinion on that discretion and then make their own call.

Mr. KENNEDY. And you would say this circumstance was in that category?

Mr. FOREMAN. Well, the recusal was, sir. The only point on that one that is related to this discussion, I think, is that Mr. Altman's

recusal was certainly in that category. That was within his discretion.

Mr. KENNEDY. It does raise an interesting point, though, which is why I think both Ms. Hanson as well as Mr. Altman find themselves in an unfortunate circumstance, because they were listening to your representation about what was ethical and what was unethical, and they went ahead and had a series of meetings which are now being criticized wholeheartedly by a number of different people for what would be—I suppose the Republicans certainly would view—as unethical; and, yet, they are following a Republican appointee's official view of what was in fact an ethical situation.

So, unfortunately, it seems like a lot of the full crumb of this concern rests really on your shoulders, and I think it rests on your shoulders to try to straighten out for the record whether or not these people actually did anything wrong.

Mr. FOREMAN. Congressman, if I can only—one item I would have to note there. I was not aware of the fall discussions or the fall meetings, to the best of my knowledge of anything relating to Madison in the fall. I read the talking points, as I said in my opening statement, for the February 2 meeting.

The CHAIRMAN. Time of the gentleman has expired.

Mr. KENNEDY. Thank you, Mr. Chairman.

The CHAIRMAN. Mr. McCandless.

Mr. MCCANDLESS. Thank you, Mr. Chairman. I would comment here, Mr. Chairman, that the more documents I read and the more testimony I hear, the more justified I really feel that these hearings are worthwhile, despite what some of my colleagues on the other side of the aisle say.

And with that, I will yield to the gentlelady from Ohio, Ms. Pryce.

Ms. PRYCE. Thank you, Mr. McCandless, and I would like to associate myself with those remarks of yours and yield my time back to Mr. McCollum.

Mr. MCCOLLUM. With the roundrobin there, I thank the gentlelady for yielding, and I want to follow up, Ms. Hanson, the sort of line of questioning we were into a while ago.

Any time with regard to these criminal referrals did you ask Mr. Roelle to actually examine the criminal referrals for you to be able to examine the criminal referrals that he discussed with you and outlined to you on September 27?

Ms. HANSON. No. There was one conversation that I did have with Mr. Roelle because it had been suggested internally at the Treasury Department that it might be a good idea for someone to read the criminal referrals in order to be able to respond to press inquiries that were coming in. It was decided that I would be the person, if anybody was going to read them, I would be the person who read them.

I wasn't inclined to do that. I spoke with Mr. Roelle, and told him that it had been suggested I read them. Mr. Roelle said, Jean, you don't want to do that, and I said, you are absolutely right, I don't want to do that.

Mr. MCCOLLUM. Who suggested you would want to read these referrals?

Ms. HANSON. I don't recall exactly who suggested it. I recall that it was at a meeting with Mr. DeVore and Mr. Altman and it may have been Mr. DeVore's suggestion.

Mr. MCCOLLUM. But what—

Ms. HANSON. But it was for purposes of being able to respond to press inquiries, but it was never pursued.

Mr. MCCOLLUM. You never went any further with it than that?

Ms. HANSON. No, sir.

Mr. MCCOLLUM. But you did talk to Mr. Roelle about it, then?

Ms. HANSON. I told him it had been suggested I read them and he said you don't want to do that, and I said you are absolutely right, I don't want to do that.

Mr. MCCOLLUM. But in the context of broaching it with him, why did you even do that in the first place? Why did you mention that fact to Mr. Roelle that had been suggested to you if you didn't think it was a good thing to do?

Ms. HANSON. Sir, I spoke with Mr. Roelle from time to time. I knew him. And I had a discussion with him.

Mr. MCCOLLUM. Well, what if you didn't think it was a problem to know what you knew about him that he gave you the heads-up on September 27, why would you find there to be any problem with reading them?

Ms. HANSON. I had a very, very limited amount of information on the criminal referrals. Very limited. Just enough to get a sense of what they were about in order to be able to be responsive to press inquiries. That is how I understood the information that I had. I had never seen a criminal referral and was not inclined to read it.

Mr. MCCOLLUM. You were not the press officer involved in this. Ms. Hanson, why would you be the one doing this instead of the press officer? You said you had enough just to refer. Why you?

Ms. HANSON. Sir, I wasn't doing all of this. I was doing—I had a conversation with Mr. Roelle; I had a conversation with Mr. Altman; my involvement in this was extremely limited. However, there were press inquiries that were coming in, press questions.

Mr. MCCOLLUM. But you have already told us that Roelle briefly summarized each of the referrals, that in that essentially he related to you that the Clinton campaign was mentioned, that there was a conspiracy to divert funds.

You had a summary of each of the referrals. You said individually you started going over them with me so you knew quite a bit about this already based upon the very first conversation that you had with Mr. Roelle. It is my understanding that after you talked with Mr. Altman, am I not correct, because it has been the subject of great controversy in the last few days that it is your recollection that Mr. Altman then tasked you to go tell Mr. Nussbaum; is that correct?

Ms. HANSON. That is correct, sir.

Mr. MCCOLLUM. And when you went to see Mr. Nussbaum, did you relate to him what you knew, what Mr. Roelle had told you and what you had told Mr. Altman, the details we went over in my first line of questioning with you?

Ms. HANSON. I don't recall specifically what I told Mr. Nussbaum.

Mr. MCCOLLUM. But you do remember specifically what you told Mr. Altman?

Ms. HANSON. I remember giving, I remember giving Mr. Altman all of the information.

Mr. MCCOLLUM. How can you remember one and not the other? This is strange to me. It all occurred within the same period of time, same lengths ago, and you remember virtually everything you said to Mr. Altman and yet you don't remember what you told Mr. Nussbaum.

Ms. HANSON. I don't remember the specifics of what I told Mr. Nussbaum, sir.

Mr. MCCOLLUM. Well, I understand, but it all seems strange to me, and I just have to wrap up by saying this whole area of criminal referrals is a terribly treacherous area. We had no leaks that actually occurred before you got the information from Mr. Roelle and passed it on to Mr. Altman and Mr. Altman passed it on to Mr. Nussbaum. We had the imminent threat of them.

To me, at least looking at this as objectively as I can, somebody is just worried the heck about the politics of this, what people upstairs are going to think about it and trying to make sure that everybody is doing real well about this, but it does not make sense to me what you are saying, and this whole thing sounds to me like there was a tremendous breach of what normal procedures would be there to protect the criminal justice system of real investigations, as they had not gone on. The FBI had not done its work yet.

The threat of what that could do is as great as anything that actually did happen, and the precedence your statement is making here today is terrible.

The CHAIRMAN. The time of the gentleman has expired.

Ms. HANSON. May I respond?

The CHAIRMAN. Yes.

Ms. HANSON. Mr. Chairman.

The CHAIRMAN. Yes.

Ms. HANSON. According to the inspector general's chronology that was released last Sunday, the first press inquiries about the criminal referrals occurred on September 23, 1993. The early bird that was faxed to me, that was sent to me by the RTC that was dated September 30, clearly reflected that internal RTC sources has suggested that multiple criminal referrals, relating to the Rose law firm members and friends linked those members and friends and insolvent thrifts, and that those suggestions were being pursued by the Associated Press and the *Washington Post*.

So, clearly, what Mr. Roelle conveyed to me, that leaks were imminent, he was absolutely correct and they may very well have occurred before I spoke with Mr. Nussbaum.

Mr. MCCOLLUM. And the press leaks had a corroboration. That is the problem.

The CHAIRMAN. The time of the gentleman has expired.

Has the gentlelady completed her statement? I guess she has.

Ms. HANSON. Oh, yes, I am sorry.

The CHAIRMAN. Ms. Waters.

Ms. WATERS. Thank you very much. Mr. Chairman, I would like to direct my questions to Mr. Foreman.

As I understand it, you occupy the position that has the responsibility of determining, advising on matters of ethics; is that right?

Mr. FOREMAN. Yes, yes, Congresswoman.

Ms. WATERS. How long have you had this position?

Mr. FOREMAN. I have had this particular position since January 1991.

Ms. WATERS. January 1991. What did you do prior to that time?

Mr. FOREMAN. Prior to that, I was an assistant legal adviser in a career position at the Department of State, in the legal adviser's office.

Ms. WATERS. Legal adviser's office. Have you had to respond to questions in similar cases about ethics matters, for example, BCCI, for example, BNL, Silverado, year-round doing—

Mr. FOREMAN. I was not in Treasury during the time of the questions that were raised about Silverado. I did work on BCCI and BNL matters. And I should say that most, almost all of my work on BCCI and BNL had to do with legal work other than ethics work. Actually, 80 percent of my job is other than ethics. About 20 percent is ethics, or so.

Ms. WATERS. You have testified that you do not find that there were any ethical violations with any of these contacts that have been discussed in all of these hearings; is that correct?

Mr. FOREMAN. Congresswoman, I have certainly testified that as in my own view of the February 2 meeting talking points, which I have personally reviewed. I was not aware about the fall meetings until spring of this year. But I note that the Office of Government Ethics report clearly analyzes all of those, the meetings in the fall, and finds no ethical violations under the Standards of Conduct.

Ms. WATERS. Have you learned anything from these hearings that you did not know before that would cause you to change your conclusions about questions of ethics?

Mr. FOREMAN. No, Congresswoman. I wouldn't have changed my conclusions. I have certainly learned more information that I would have taken into account, you know, in looking at these matters. But it would not have changed my conclusions.

And I might add to that, I think the Office of Government Ethics, based on the inspectors general of two agencies, reports, knows far more details and information about these meetings than I do, and I, therefore, respect their conclusions perhaps more than what I have heard in piecemeal fashion over the last week.

Ms. WATERS. Can you, in a short statement, summarize why there may be a need for conversations, contacts between, say, Treasury and White House or other agencies and White House, even in matters where certainly certain information must be protected?

Mr. FOREMAN. Congresswoman, it is a very, very difficult situation always in dealing with matters that may involve the White House or the Presidency. And I certainly think that I was very impressed when Mr. Cutler took over the position of White House counsel, that he made it clear that he was counsel for the Office of the Presidency rather than personal counsel for the President. And that might be something that, you know, all of us keep in mind in the future as well.

But the Presidency, the White House, is a different kind of animal. Not because, as I have heard charged, people somehow want to personally help the President. The President is the boss of the entire executive branch. There is tremendous press attention on anything that goes on in the White House. I believe that the White House counsel needs to know what is going on in the executive branch, of things that could affect the White House or, in fact, the President.

Ms. WATERS. Thank you. I yield back the balance of my time.

Mr. VENTO. Would the gentlelady yield?

Ms. WATERS. I would yield the balance of my time to Mr. Vento.

Mr. VENTO. Mr. DeVore, Ms. Hanson reported at a meeting you attended that she, in fact, was requested to explore the possibility of reading the criminal referrals through the RTC. You participated in the meeting?

Mr. DEVORE. Not that I recall.

Mr. VENTO. You don't recall the meeting.

Mr. DEVORE. And to this day I am not familiar—I don't recall the meeting and to this day I am not familiar with any of the details of the criminal referrals.

Mr. VENTO. Ms. Hanson, you recalled such a meeting. Did you have any words of caution to the participants in that meeting about the propriety of reading such documents?

Ms. HANSON. We did talk about whether it would be the appropriate thing or not to do.

Mr. VENTO. And you were concerned about that?

Ms. HANSON. Yes.

The CHAIRMAN. The time of the gentlewoman has expired.

Ms. HANSON. Absolutely.

The CHAIRMAN. Mr. Baker.

Mr. BAKER. Thank you, Mr. Chairman.

Ms. Hanson, in your response to an earlier question you indicated that one of the legitimating reasons for discussing the referrals with Mr. Altman was due to his position in the capacity as the newly appointed CEO and that you felt because of obvious interests by press inquiries he should be given the courtesy of a heads-up. Did I summarize one of those reasons properly?

Ms. HANSON. This is the conversation with Mr. Altman?

Mr. BAKER. No, I think in response to a question earlier by a member of the committee you indicated as to one of the reasons for that briefing to Mr. Altman about the pending referrals after your conversation with Mr. Roelle was that as a newly appointed CEO you felt that was one of the reasons why he should be given knowledge so that he could appropriately respond to press inquiries. Was that a correct observation?

Ms. HANSON. If I could just take a moment and explain. Mr. Altman became the interim CEO of the RTC, I believe in March 1993, and he is my immediate superior. I received the information from Mr. Roelle, I understood under authorization from Mr. Altman, in order to receive the information, understand it from Mr. Roelle, and then discuss it with Mr. Altman.

So I specifically understood that the reason that I was receiving the information was to have a discussion with Mr. Altman.

Mr. BAKER. And the ability to discuss it with him was in fact related to his position that he was your immediate supervisor and you felt an obligation or an ability to discuss these matters with him on that basis?

Ms. HANSON. I understood from my conversation with Mr. Roelle that that was what I would do with the information, yes, sir.

Mr. BAKER. To your knowledge, you were one of the earlier points of contact as a Treasury official by Mr. Roelle as to the first awareness, if not the first, one of the first, the early notified parties with regard to the criminal referrals; to the best of your knowledge?

Ms. HANSON. To the best of my knowledge.

Mr. BAKER. Given that the Secretary of the Treasury does, in fact, send out weekly briefings to the Chief of Staff of the White House indicating various matters of interest, to your knowledge, what was the earliest point at which matters considering Whitewater-Madison Guaranty or related events were contained in any of those weekly briefings?

Ms. HANSON. I have no idea, sir. I have no idea if they were ever contained.

Mr. BAKER. Did you have occasion prior to the March 2 briefing of the Secretary, before his—excuse me. That is a different date. There was a briefing prior to the Secretary's appearance in the Senate on an RTC oversight hearing in February, I believe.

You met with the Secretary the day before to help prepare him for that testimony. Prior to that occasion, was there any other point in your relationship with the Secretary in which you might have discussed either the criminal referrals or the current circumstance of the matter relating to Whitewater?

Ms. HANSON. Well, my September 30, 1993 memorandum states that I had spoken with the Secretary.

Mr. BAKER. And in what capacity was that conversation? Was it in relation to the September or October meetings or was it in relation to Whitewater concerns generally?

Ms. HANSON. Well, as I stated in my opening statement, I have no independent recollection of preparing that memorandum. It was—

Mr. BAKER. So that it would be a fair assessment—

Ms. HANSON. It was—

Mr. BAKER. If I may, because I may be getting close on my time.

Ms. HANSON. Well, could I finish my answer?

Mr. BAKER. I am sure the chairman will give you time, if there is a need, but my point here is that as a person who is the general counsel for Treasury, who has perhaps daily contact, at least weekly contact, you were the first, or one of the first contacts within Treasury with regard to the matter of criminal referrals.

In your explanation as to why Mr. Altman would be an appropriate party for you to discuss this matter with, the reasoning was he was the CEO, newly appointed. It would be difficult for me to conclude, given the week-to-week relationships in your professional capacity, and the fact you cannot remember the specific details of the memorandum in question, that the Secretary did not know prior to March 3 of either the September or October briefings in

the White House or that there were additional details concerning the criminal referrals.

Is that an unfair categorization, given your professional relationship with the Secretary?

Ms. HANSON. Let me state again, my September 30 memorandum states I had briefed the Secretary. As my opening statement—as I stated in my opening statement, I have no independent recollection of having written that memo, but I am certain that I did. It was located in two places in my office when the documents were—when the search was under way for the grand jury—

Mr. BAKER. There was also one other—

Ms. HANSON. May I finish my answer, sir?

Mr. BAKER. Certainly, you may.

Ms. HANSON. May I finish my answer?

Mr. BAKER. You can, but I want one more question on the record before—

Ms. HANSON. Mr. Chairman, may I finish my answer?

Mr. BAKER. No, I know I control the time. If I must, I control the time.

Ms. HANSON. I haven't answered—

Mr. BAKER. Regular order, Mr. Chairman. Regular order, please.

Mr. Chairman, whose time is this?

Ms. HANSON. I haven't answered your question.

Mr. BAKER. I know you haven't, but I have a right to ask my question or to complete my statement.

If I may, Mr. Chairman, regular order.

Mr. NEAL. Mr. Chairman, I have a parliamentary inquiry.

Mr. BAKER. Regular order.

The CHAIRMAN. State your inquiry.

Mr. NEAL. Isn't it within the rules of the committee that when a question is asked that the witness has the chance to answer the question?

Mr. BAKER. Mr. Chairman.

Mr. NEAL. Mr. Baker has asked three questions and then he will not let the witness answer the questions. That just does not seem consistent with our rules.

The CHAIRMAN. Let me assure the gentleman that the Chair will protect the witness. The gentleman from Louisiana had about 20 seconds before that light went on and we got into this discussion to propound his last and final question.

Mr. BAKER. I thank the chairman. All I wanted to do was get on the record the last question, and I am certain the chairman recognizes the gentlelady's right to respond.

Do you recall a meeting on February 1, 1994 when you met with the Secretary and Mr. Altman, when you briefed him on the statute of limitations issues, and in the context of that meeting were there other elements discussed beyond the statute of limitations?

You may respond. Thank you.

The CHAIRMAN. Time of the gentleman has expired.

The gentlelady may respond.

Ms. HANSON. I will do my best to answer all of the questions that you have asked, but I don't remember them all, so I probably won't be able to answer them all, but let me do the best that I can.

As I stated, my September 30 memorandum indicates that I had spoken with the Secretary. As I stated in my opening statement, I don't recall having—I do not have an independent recollection of briefing the Secretary on this. It could have been that I talked with him about the meeting.

I think from the context of the way the memo is written, it is more likely that I simply told him about the fact that there may be press inquiries relating to criminal referrals regarding Madison. I have no knowledge that the Secretary knew about the October 14 meeting other than what I have seen in the press.

On the February 1 meeting—as I stated in my opening statement, there was a meeting on February 1 that I recall attending with Mr. Altman in which the statute of limitations was discussed. The operation of the statute of limitations, in which Mr. Altman stated that he had decided to recuse himself because he thought that there was going to be a great deal of political and public criticism if he did not.

And Mr.—and the Secretary asked—the Secretary in that conversation asked who would be the decisionmakers? Mr. Altman explained it would be Ms. Kulka and Mr. Ryan. And the Secretary told him that it sounded like the right decision; sounded like something he should do.

And at that meeting, Mr. Altman said that he would like to go to the White House and apprise appropriate White House officials as to his decision and I said that I would accompany him.

The CHAIRMAN. Thank you.

Mr. LaRocco. Mr. LaRocco.

Mr. LAROCCO. Thank you, Mr. Chairman.

I have questions for Mr. DeVore and Mr. Foreman, first, Ms. Hanson, have you completed your answer? I would yield my time if you have not completed your answer to Mr. Baker's questions.

Ms. HANSON. I believe—I have answered all of the questions that he gave me that I can remember.

Mr. LAROCCO. I just wanted to make sure you had the opportunity.

Mr. DeVore, I want to return to the October 14 meeting, if I may please, sir. It is my understanding that you were the official at Treasury who set up the October 14, 1993 meeting between White House and Treasury officials regarding the criminal referrals. Is that true?

Mr. DEVORE. That is not my recollection, but I can't say it absolutely isn't true.

Mr. LAROCCO. Had you seen a copy of the criminal referral before you briefed the White House?

Mr. DEVORE. I have not seen a copy of the criminal referral yet.

Mr. LAROCCO. When did you first learn about the criminal referrals relating to Madison Guaranty?

Mr. DEVORE. October 11.

Mr. LAROCCO. And how did you learn about them and from whom?

Mr. DEVORE. I learned about them from a newspaper reporter who called me.

Mr. LAROCCO. So it came primarily from a reporter's inquiries?

Mr. DEVORE. Totally. Totally.

Mr. LAROCO. What was the purpose of the meeting on October 14?

Mr. DEVORE. From my point of view, the purpose of it was for me to tell people in the White House the details of the inquiry I received from the reporter on Monday, October 11.

Mr. LAROCO. And at that meeting, did you relay to the White House information you had received from the reporters in your conversations with them?

Mr. DEVORE. Yes, sir. I did.

Mr. LAROCO. And did you discuss what Sue Schmidt, a reporter from the *Washington Post*, told you and what questions she posed?

Mr. DEVORE. I didn't talk with Sue Schmidt.

Mr. LAROCO. Did you go through what Jeff Gerth, a reporter from the *New York Times*, was telling you and then what question he was posing?

Mr. DEVORE. I did.

Mr. LAROCO. Did you report that Jeff Gerth had identified for you four campaign checks and asked you to find out who had endorsed them?

Mr. DEVORE. I don't remember the details. This was 2 weeks before I was to leave government. It was at a time shortly after I had buried my father. I am hazy on the details, but that rings a bell.

Mr. LAROCO. Do you recall that Jeff Gerth had misinformation about when the referrals had been forwarded to Little Rock and you were considering how best to clarify his understanding? Does that ring a bell?

Mr. DEVORE. My recollection is that Mr. Gerth's information was outdated. Yes, it was.

Mr. LAROCO. And that was reported during the meeting as well?

Mr. DEVORE. Either during the meeting or shortly before the meeting, I learned that while the reporter called me on Monday, October 11, and advised me that the referral had not been sent to the U.S. attorney in Little Rock, in fact, the referral had been made on Friday, October 8.

Mr. LAROCO. So my final question would be, then, the meeting was to discuss press inquiries and how Treasury intended to respond to them? Was that the purpose of the meeting or part of it?

Mr. DEVORE. It was. I wanted to let the White House know that this reporter was calling asking questions that surprised me. That was the purpose.

Mr. LAROCO. Thank you.

I want to turn to Mr. Foreman, if I may, please. I want to follow up on some questions of my colleague from North Carolina. Mr. Neal asked earlier about recusal and the implications of having friends, for example, of the President recuse themselves just because of the friendship.

In the time remaining, which I think is about a minute, it would be interesting, I think, for the committee for you to tell us what you believe the implications and impact would be if friends of the President always recused themselves. Would that paralyze the government and would we be able to function? How would that work?

Mr. FOREMAN. Congressman, as I—the real reason why OGE was considering this a couple of years ago as a possibility really did not

have to do that much with just friendship. One of the things they were concerned about frankly was that if you are looking at financial relationships between spouses and relatives and families and people who live in the same household, is that overlooking a situation where, in fact, people are living together, "significant others," whatever term you want to use.

And there was a question about whether that should be somehow dealt with in a financial conflict area. And that—plus the idea, well, maybe you know, so maybe you're really, really close friends with someone, in fact, there is a line in one of the Standards of Conduct that talks about relatives may not always be in a covered relationship with you if they are somehow related to you unless you are also a close friend with them.

But all of these kinds of things were considered at great length and then put out as a proposal. And I think when many of us in the agency saw that as a proposal, the problems that would come up having to try to deal with the privacy concerns, as one matter, talking to people about are they living with someone; is there—you know are they in this same household. Are they roommates? How close is their friendship? What are all the factors of friendship?

After we started bringing up all these things, and I will add that ethics officials are not investigators. We do not have the ability or the interest in running around people's houses finding who is living with whom. It just became an impossible situation to try to actually administer.

I think through all of our arguments as to the difficulties of that, OGE decided that it was not a good idea to have a friendship as a covered relationship. But then they set out a series of factors for people to consider; that if the friendship itself does not require legally that someone recuse, that they listed seven or eight factors that a person within their discretion should look at to determine if it was still a good idea to recuse one's self and that is how they handled the issue, sir.

Mr. LAROCO. Thank you, Mr. Chairman.

The CHAIRMAN. The time of the gentleman has expired.

I was interested in that observation about the definition. Obviously, that would kind of preclude kissing cousins. Usually they are not on good relations.

Let's see. I believe Mr. Nussle.

Mr. NUSSLE. Thank you, Mr. Chairman.

The CHAIRMAN. OK.

Mr. NUSSLE. However, I am yielding my time to Mr. Grams from Minnesota.

Mr. GRAMS. I thank the gentleman for yielding.

To get the formalities out of the way, or the Minnesotans niceties, we might call it, I would welcome my fellow Minnesotan and, of course, thank the other members of the panel for taking the time to be with us today.

Ms. HANSON. Thank you.

Mr. GRAMS. Ms. Hanson, I want to go back and follow up a line of questioning Mr. Baker was talking about; that is, the February 1, 1994 meeting. Now, you said you recalled attending that meeting, which Mr. Altman and Secretary Bentsen also attended, and you stated that—you remember that part of the topic of discussion

was whether or not Mr. Altman should recuse himself; is that correct?

Ms. HANSON. Yes. Part of the discussion was recusal, right.

Mr. GRAMS. Did you agree with the conclusion of Mr. Altman that he felt he should recuse himself? Did you agree with him?

Ms. HANSON. I recommended he do that; yes.

Mr. GRAMS. Did the Secretary; that is, Mr. Bentsen, did he have any comment during that discussion about Mr. Altman's decision on whether or not he should recuse himself from the RTC?

Ms. HANSON. As I stated, he asked who the decisionmaker would be and Mr. Altman gave him his rationale, his reason for the decision and the Secretary said it sounded like the right thing to do.

Mr. GRAMS. In giving him that, did he voice any objection then to Mr. Altman or any concern?

Ms. HANSON. No, Congressman.

Mr. GRAMS. He was also asked about the decision again who would be the person once Mr. Altman was recused? Was he satisfied with the names Mr. Altman gave him as those who would be then in charge or answering at the RTC?

Ms. HANSON. I understood him to be.

Mr. GRAMS. Did Altman say again that he thought the White House should be informed about this decision; that the information should be passed on?

Ms. HANSON. Yes, sir.

Mr. GRAMS. What was the Secretary's response to Altman's suggestion at that, that the White House be notified of this?

Ms. HANSON. I don't recall that he had a response, sir.

Mr. GRAMS. I am interested in what, if any, influence the White House had on this decision of Mr. Altman or his thoughts of recusing himself, such as pressure from Mr. Nussbaum, as we have heard earlier, as mentioned in Mr. Steiner's diary, that Mr. Altman felt a lot of pressure from the White House in this decision?

Ms. Hanson, you remember that during Ellen Kulka's Senate testimony on Monday, she recalled a conversation she had with you about Mr. Altman's refusal to recuse himself from the Madison case. According to Ms. Kulka, she asked you why Mr. Altman refused to recuse himself in spite of the ethical dilemma that this recusal posed and again she said, and I want to quote from your testimony.

She said, "I walked down the hall with her," meaning you, Ms. Hanson, "and I said 'I just cannot believe he is willing to put himself in this position to take all of this political heat when it is clear he is not going to make the actual decision. Why would he ever do it?'"

To which you, according to Ms. Kulka, then replied to her, "Think about it."

Think about what? What did you mean by it? Think about it.

Ms. HANSON. I meant if she thought about it, that she would likely conclude that the reason that he was—did not recuse himself is because it made people in the White House happy. She knew, and I knew, that it didn't have any—it made no difference whatsoever to the substantive outcome of the civil investigation.

Mr. GRAMS. So, then, it really can go back to, as Mr. Steiner's diary stated, that there was pressure from the White House that

Mr. Altman not recuse himself, because it would be better if he were the person at the head, the CEO, who could monitor what was going on with the RTC in relation to the questions of Madison Guaranty, the criminal referrals and the Clintons?

Ms. HANSON. If the term "pressure" is to describe what happened during the meeting that I attended, that is not the word that I would use.

I understand Mr. Nussbaum has testified before you. He is an advocate, and I understood him to be an advocate in that meeting. That is his nature. But I understood Mr. Altman to have heard what was said and to consider it. So I would not have considered that pressure.

Mr. GRAMS. But one final comment or question. If you felt in referring to "think about it" that the White House would be more pleased if he had not recused himself and stayed, that that was a general consensus, not just among yourself, but Mr. Bentsen and maybe Mr. Nussbaum and maybe others connected to this case, that everybody agreed that it might be better, George Stephanopoulos as well.

Ms. HANSON. I don't know that everybody—

Mr. GRAMS. That it would be better if he stayed.

Ms. HANSON. I don't know if everybody agreed it would be better. I had recommended he recuse himself. Many people had, but he determined not to do that at that particular time, which was completely his decision because—

Mr. GRAMS. There is a thin line between advocacy and pressure.

Ms. HANSON. Because it made them happy.

As I say, Mr. Nussbaum testified in front of you. Mr. Altman has known Mr. Nussbaum for some time, I understand, and he is an advocate. That is how I understood it.

The CHAIRMAN. The time of the gentleman has expired.

Mr. Orton.

Mr. ORTON. Thank you, Mr. Chairman, and thank you to the witnesses for sharing your time with us today.

There have been, prior to and during this hearing, two different theories proposed by my colleagues in the House and in this committee with regard to the information which was transmitted between Treasury, the RTC, and the White House.

The first theory is that giving the information to the White House at all was wrong; somehow illegal, unethical, or improper. I believe the special counsel, the OGE, counsel at Treasury, and counsel at the White House all have looked at that question specifically and indicated it was not illegal, and it was not unethical.

My colleagues may not like those answers, but those are the answers; that giving the information itself was not improper.

The second theory was that the use of the information, how it was used, may have been illegal or improper. I also believe—and if any of you know that this is incorrect, correct me—that the special counsel, the OGE, the counsel for Treasury, and counsel for the President, have also looked at that and said that there were no improper or illegal activities in the use of this information, no obstruction of justice, no illegal activities, no unethical behavior, and so on.

Again, you may not like those answers, but those are the answers.

Now, there have been two specific charges or allegations that have been made by members of the committee with regard to use of this information. One allegation several days ago by Mr. McColm was that the President himself, in talking with Governor Tucker, may have transferred information inappropriately. I believe that theory was dispelled by the information provided by the White House from people who actually attended the meeting, saying that no such discussions took place.

The next theory was proposed, I believe, by Mr. Leach today in his opening statement stating that there is proof that there were attempts or efforts to either prohibit the criminal referrals from going forward or somehow obstructing the information from going from RTC to the Justice Department.

That is the heart of the questions on recusal and the suggestion that somehow if they could have kept Altman at RTC, they could control the activity in the investigation and somehow stop it or prohibit it.

The question that I was trying to propound to Mr. Leach a little earlier and was not able to, was whether the testimony, or information which he has cited here today from Mr. Curtis, and I believe Mr. Dudine, was available to Special Prosecutor Fiske and to OGE? Has that information been considered in these investigations of the use of this information?

If it was, then that is important for us to know, because it appears that it has been considered by all of these investigations and there is no new information. But if that information has not been available, I would like to know that and I would like to have Mr. Leach provide me and other members of the committee with any additional information that has not been available to Mr. Fiske, has not been available to OGE.

Also, I understand Mr. Leach and committee staff have traveled to Kansas City, I believe, and interviewed RTC staff members. I am wondering if Mr. Leach would make available to other members of this committee, the names of the people that you have interviewed, the notes, the information, any testimony that they may have given. In this way, we can have available to us all of the information and know which was actually available to the special prosecutor and to OGE so that we know whether or not we are dealing with all of the information?

Mr. LEACH. Of course. I would ask the Chair if I could be given permission to respond to the gentleman.

Mr. ORTON. I will yield time I have to you to respond.

The CHAIRMAN. Yes, the gentleman is recognized.

Mr. LEACH. Well, first, in response to your initial query, because it is a very critical, because there have been certain OGE investigations and special counsel investigations, one has to be careful about confusing them.

The special counsel has dealt with the issue of White House contacts in Washington with the RTC and the Treasury. The special counsel currently has under review Washington contacts with the regional offices, and so those are under review at this particular time.

Now, the gentleman from North Carolina has enquired about the evidentiary base of what I have said. Let me just read four or five sentences and then indicate to you the evidence that I have, some of which I will simply affirm to you.

I stated on September 30, the Professional Liability Section [PLS], of the RTC attempted to negotiate a 3-week delay before submission of the referrals to the Justice Department. I can affirm that based upon a conversation with a party to that discussion. You have witnesses that can come later this week that perhaps can affirm that as well.

One week was agreed to by the Kansas City Criminal Investigations Unit. I can also affirm that based upon a party to the discussion.

Subsequently, a legal analysis was developed objecting to the Criminal Unit's conclusions primarily on statute of limitations and double jeopardy grounds. That is indicated by a party to the circumstance as well as by indications from notes of various people.

The CHAIRMAN. Will the gentleman yield to me at this point?

Mr. LEACH. Yes, of course.

The CHAIRMAN. May I suggest, because his time has expired sometime ago, that at the end of this hearing that the gentleman be recognized to fully reply to this request on the part of Mr. Orton and Mr. Neal.

Mr. LEACH. Well, if the gentleman would yield.

The CHAIRMAN. Because it has to do with your opening statement, and I think at this time we should proceed regularly.

Mr. LEACH. I appreciate that, but rather than dividing it, I can finish my comments in a minute or so and the gentleman asked me a question.

I asked before responding if the Chair would allow me time to respond in a full way. I think it would be appropriate to continue so that we can consistently put this on the record, and so I would ask the Chair's indulgence to proceed.

The CHAIRMAN. The gentleman requests unanimous consent to proceed for an additional 1 or 2 minutes.

Mr. LEACH. For 1 or 2 minutes.

The CHAIRMAN. OK.

Is there any objection?

Mr. NEAL. Reserving the right to object, Mr. Chairman.

The CHAIRMAN. The gentleman reserves the right to object.

Mr. NEAL. I am very interested in seeing this information.

Mr. LEACH. I am responding fully to the gentleman. If the gentleman will allow me to continue, I think he will get a sense for it.

If you don't want me to continue, please object.

Mr. NEAL. I really want the gentleman——

Mr. LEACH. You have objected to me placing statements in the record. You are objecting to my speaking. How else can I respond?

Mr. NEAL. Well, let me say to the gentleman, what I see the gentleman——

Mr. LEACH. If the gentleman wants——

Mr. NEAL. Please don't interrupt. The gentleman is asserting he is not providing any new information or evidence. So I would like to see the information or evidence. That seems only fair.

The gentleman is making serious charges, so I will not object at this time, assuming that the gentleman is going to provide us with some information, not just assert based on some conversations he's had that we don't know anything about, or have no evidence concerning.

So I will not object, in the hope that we will see some evidence, we will hear some evidence.

Mr. LEACH. Well, I would say to the gentleman, to begin with, on the first two or three sentences, that as a Member of the U.S. Congress, I have affirmed a discussion with parties to this circumstance. If the gentleman wishes to suggest that that is not evidentiary, then the gentleman is, in effect, doubting the word of a Member of Congress.

Mr. NEAL. This whole thing is about doubting the word of the President of the United States.

Mr. LEACH. The gentleman may reserve that judgment. I would like to go on with the next set of sections because there is a different set of standards. According to testimony acting RTC general counsel Glion Curtis gave the inspector general, Jean Hanson appeared to have been consulted in the critical legal analysis on October 4. I have actually earlier today put that in the record, that Glion Curtis under-oath assertion. Ms. Hanson today has suggested that she doesn't recall them, so—

Ms. HANSON. It never happened. It never happened.

Mr. LEACH. Two members of this administration have stated contradictory things. One or the other is either misremembering, or something else, but I referenced it very carefully "according to testimony."

Then it (my opening statement) says on the 8th the analysis was provided the criminal investigations unit, which held firm, refusing to capitulate to PLS objections. That observation is based upon documentation from James Dudine, which I have also asked unanimous consent to put in the record; but at the moment that has been objected to by the gentleman from North Carolina.

The referrals were then sent to the U.S. attorney in Little Rock. That is, I think, in the public record, but if not, it is also reflected in the Dudine testimony.

So, apparently, in an unprecedented procedure where the PLS objects to criminal investigation conclusions—that is based on the Dudine testimony, which, by the way, the majority and the minority have the records of. That is totally unprecedented, it is my understanding, in RTC procedures.

That is the full basis of what I have said, and I would suggest to the gentleman that I have also placed in the record an E-mail, which indicates that the acting general counsel of the RTC was in contact with the office in Kansas City and was made aware of this entire circumstance.

The CHAIRMAN. The time of the gentleman has expired.

Mr. NEAL. Is the gentleman saying that is his entire evidence? If it is, I won't object.

The CHAIRMAN. The gentleman has completed his statement. And the Chair has been generous in recognizing the time allotted, so I don't think that at that point we should do less than continue. However, the Chair has been advised that witnesses have re-

quested a brief break. So we will have a brief recess to allow the witnesses to do what they have to do.

[Recess.]

The CHAIRMAN. The committee will please come to order.

And the Chair will recognize Mr. Roth.

Mr. ROTH. Thank you, Mr. Chairman. I appreciate our witnesses being here today. My job is to talk to Mr. Steiner for a bit. And you know, Mr. Steiner, you seem like a nice young man. You are not much older than my own son. You are just beginning your career here. What are you doing here?

Mr. STEINER. It is a question I have asked myself many times, Mr. Congressman.

Mr. ROTH. Do you read *Human Events*?

Mr. STEINER. No, I do not.

Mr. ROTH. It is a great newspaper. I want to recommend it to you because they are telling us exactly what is going on in our committee. You wrote some of the things in your diary that didn't fit with the party line, as I see it, at the White House.

But that is not the real issue here. I am not here to beat up on anybody. Your diary, in my opinion, is just a diversion. The heart of the matter is not what happened in Washington with you or Altman or Nussbaum. The heart of the matter is what happened in Arkansas years ago before you even thought of working at the Treasury Department.

This is not about who talks to whom in Washington; it is really about why Madison Savings and Loan failed. That is the real issue. It is about Whitewater Development and how that company was tied into Madison Savings.

This isn't about your diary's truthfulness over Nussbaum's legal advice. It is about the behavior and character of a man who is now President and how he acted before he entered the limelight of national politics, what his actions were there then. And the heart of the matter is whether Bill and Hillary Clinton used that power to cover up the scandal in Arkansas; and it is a shame that a nice young man like you is being used to deflect attention from what this committee should really be looking into.

I think, for us on this committee, we want to keep in mind that the issue is Madison Savings and Loan. It cost the taxpayers \$60 million. What did Whitewater have to do with the collapse of Madison Savings and Loan? That is the issue; all of the other issues here are not the real issue.

And so, with that, I just want to thank the chairman for yielding to me; and if people really want to know what is happening on this committee, I advise to you read this article because it is right on target.

I would be happy to yield to my friend, Mr. Nussle.

Mr. NUSSLE. I thank the gentleman for yielding. I have a couple of questions I would like to direct to Ms. Hanson.

First, I would like to point out that there have been some on the committee that have suggested to me that I should probably recuse myself from doing this because we went to the same college, Luther College in Iowa. And I point out to those students who are listening tonight, that if you go to Luther, some day all of this could be yours.

Ms. HANSON. I am sure they will take that as it is meant.

Mr. NUSSLE. I am sure they will. Enrollment may go way up.

In your Senate testimony, you made reference to a comment by Senator Moseley-Braun. You were very specific in correcting the record—not correcting the record, but being perfectly clear on the record. You said, to make sure my testimony is perfectly clear on the criminal referrals, I did have a conversation with Mr. Roelle at one point about the criminal referrals, because it had been suggested that I might read them. And I told Mr. Roelle that it had been suggested that I read them. And he said, Jean, you don't want to do that. And I said, you are right. I don't want to do that—just so the record is completely clear.

What I am wondering is, you say it had been suggested, and I am wondering how that suggestion was made to you. To get a copy or see or read the criminal referrals, who made that suggestion to you, that you referred to?

Ms. HANSON. As I previously stated, I recall that the conversation took place with Mr. DeVore and Mr. Altman, and I don't recall who else was there; and I thought that it was Mr. DeVore's suggestion. And the reason given was to be able to properly and intelligently respond to press inquiries, but as I also stated, it was not pursued; and I agreed completely with Mr. Roelle, and I was not inclined to do it in any event.

Mr. NUSSLE. However, it has also come to our attention that in January, mid-January or the first couple of weeks of January, you made that request again to see the 1993 criminal referrals, at a meeting that I understand was attended by Mr. Bowman, Mr. Barker, Mr. Heinz, and yourself. I believe they are all there, I apologize if I have gotten that wrong.

The four of you met. You reiterated your request. My understanding, from at least reports on this, is that again you were told that they didn't believe that that was appropriate. Do you recall that meeting in January?

Ms. HANSON. I don't recall that meeting, and I don't think it occurred. The criminal referrals had gone to the Justice Department in the fall of 1993. There would have been no reason—there was no involvement of the RTC or Treasury in the criminal referrals in January at all. So I don't recall that it happened, and I don't even understand why it might have. I do recall an issue being raised in January 1994 concerning what additional work would have to be done in connection with the civil investigation of Madison in light of the extension of the statute of limitations and, specifically, whether the investigation that resulted in the criminal referrals had been sufficiently broad and thorough that it would have encompassed claims under the statute of limitations, as extended. However, I do not recall requesting to see the criminal referrals.

Mr. NUSSLE. Is it your testimony that the meeting did not happen?

Ms. HANSON. I don't recall a meeting at which that was discussed, and I do not recall making that request.

Mr. NUSSLE. It was also suggested that at that meeting you made a statement, that I would like to ask to you comment on, that you were making this request on behalf of Deputy Secretary Roger Altman who wanted to be able to tell Republican lawmakers that

the case had been closed out; and it was the response to you at that time—during that meeting was that it would be premature since the investigation was ongoing.

Do you recall—does that help refresh your memory at all about this January meeting?

Ms. HANSON. In terms of looking at criminal referrals, no, it does not.

Mr. NUSSLE. So the only time you made a request to see criminal referrals was at the September 29 briefing with Mr. Roelle? You have never made another request—

Ms. HANSON. I never made a request on September 29. As I stated, at some later point in time, in early October, it was suggested, I recall, that it may be useful if the criminal referrals were read in order to be able to respond to press inquiries. I was not inclined to do it, but I was open-minded. I spoke with Mr. Roelle and told him that it had been suggested that I might read the criminal referrals. He said, Jean, you don't want to do that. I said, You are right, I don't want to do that; and that was the end of the conversation.

The CHAIRMAN. The time of the gentleman has expired.

Mr. Bacchus.

Mr. BACCHUS OF FLORIDA. Thank you, Mr. Chairman.

Ms. Hanson, I was struck by something that you said to the Senate, and you said again to us, if I may quote in the first portion of your testimony, I am neither a "Beltway insider" nor a political person. Prior to coming to Washington, I had no contact whatsoever with the President or the First Lady. I did not campaign for them or for any candidate. And I do not owe my Treasury appointment to political activism. I was recruited for my position. My husband is a Republican.

I am certain all of this is true. I am not certain why it is significant other than as factual background. Is this relevant? If so, why? Is this relevant to anything that you have done or not done?

Ms. HANSON. I am a Presidential appointee, and I have found in my experience that when one uses the term "Presidential appointee," the expectation is that one has become a Presidential appointee because of political relationships or—and I wanted to make clear that I don't have any of those relationships.

Mr. BACCHUS OF FLORIDA. You have no experience in politics before coming here?

Ms. HANSON. No, sir.

Mr. BACCHUS OF FLORIDA. And no experience in government? You have never been in government before?

Ms. HANSON. I was a probation officer and worked for the Welfare Department in Minnesota years ago, before I went to law school.

Mr. BACCHUS OF FLORIDA. That is government on the frontlines.

Do you think the fact that you have not had any prior experience in politics or the executive branch in government has affected your decisionmaking in any way in this entire melodrama?

Ms. HANSON. No, sir, I don't believe that it has.

Mr. BACCHUS OF FLORIDA. Let me tell you why I am asking these questions.

You mentioned earlier that you recommended that Mr. Altman recuse himself. Why did you think he should recuse himself?

Ms. HANSON. If you recall, at the time that these discussions took place, there was a great deal of congressional interest in the entire Madison Guaranty civil issue.

Mr. BACCHUS OF FLORIDA. Yes, ma'am.

Ms. HANSON. And at that point in time, the statute of limitations on a civil investigation was February 28.

Mr. BACCHUS OF FLORIDA. Right. Did you think that he was somehow undermined in terms of the confidence of the Congress, or the public, because he did have a political background?

Ms. HANSON. No, I thought that he was going to be criticized publicly and by Congress because of his relationship with the President and the First Lady, given the brief period of time in which the decision had to be made; and he said repeatedly that he wasn't going to make the ultimate decision anyway, because he was going to rely on Ms. Kulka's recommendation.

So balancing the fact that he was not going to be involved anyway with the——

Mr. BACCHUS OF FLORIDA. So you didn't think there was a legal reason for him to recuse himself, it was really a political decision to avoid criticism?

Ms. HANSON. On balance, yes.

Mr. BACCHUS OF FLORIDA. What concerns me is this. I think I agree with what Mr. Nussbaum said to us, which is that if we start saying that the friends of the President, the supposed friends of the President cannot make decisions in the executive branch, then where do we stop.

Mr. Altman went to college with the President. Is it enough to go to college, as an undergraduate, with the President or do you have to go to law school and to Oxford with him as well? Is it necessary to jog with the President to be a friend?

I don't jog with the President. I don't know whether you do or not.

Is it necessary to eat popcorn with the President while you watch a movie in the White House in order to be a friend and therefore have to recuse yourself? This becomes ridiculous so far as I can tell.

So it was purely a political decision as far as you are concerned?

Ms. HANSON. I heard Mr. Nussbaum's testimony last week, and I agree with him completely and he stated it more forcefully. If this particular case, because of the particular facts and coming back to the statement that Mr. Altman made repeatedly, that he wasn't going to be involved in it anyway, it seemed to me, on balance, that that is what I would have done if I were in his situation.

Mr. BACCHUS OF FLORIDA. One final question, do you consider yourself a friend of the President?

Ms. HANSON. I really don't know the President.

Mr. BACCHUS OF FLORIDA. One statement for Mr. Steiner. I trust you will not waste your time or money on *Human Events*. I have read it, and it is not worthwhile. And you can be proud of working for somebody with the courage and the character of Bill Clinton, and I am sure you are.

I yield back the balance of my time.

The CHAIRMAN. The gentleman yields back.

Mr. Thomas.

Mr. THOMAS. Mr. Chairman, I yield my time to Mr. Johnson.

Mr. JOHNSON. Thank you, Mr. Thomas.

Thank you, Mr. Chairman.

Ms. Hanson, as you know, we have listened to many recollections of meetings and contacts over the past 1½ weeks, really. And there are so many different versions of the same events floating around that you can't believe it.

After hearing all of them, I sort of think your statements are pretty honest; and you know, what I do not agree with is your opinion that some of these contradictions in recollection are nonconsequential. It was and still is, I think, a politically charged situation. And I can't fathom the lack of memory in events of this magnitude, and I would like to highlight just three of them, in fact, that have been offered in testimony.

You say that Roger Altman told you to brief Nussbaum about the referrals, and yet Nussbaum, or rather Altman, says he never told to you to do that. You also say that Roelle never told you not to speak to anyone else about the referrals, other than Altman; and he claims he did.

Before the October 14 meeting, you were called to Altman's office to discuss with Mr. DeVore press inquiries regarding Madison and the criminal referrals, and you state that Altman asked you, you think, something about this, right? Altman doesn't even recall the meeting.

These are just a few of the many contradictions we have been offered on these topics, and obviously, all the people can't be telling the truth. So the facts are important and that is what we are here to find out; and I am asking you, who is telling the truth?

Ms. HANSON. Well, let me start off by saying that these events took place a very long time ago. And even in events that take place more recently, witnesses differ, witnesses' recollections differ, so it doesn't surprise me that people have differing recollections of events that took place last fall.

In terms of the question about Mr. Altman asking me to go to see Mr. Nussbaum, I have been through this over a long period of time, thought about it carefully; and I recall very clearly having a meeting with him in his office after I spoke with Mr. Roelle.

I understand that Mr. Nussbaum and Mr. Sloan have both testified that in my initial meeting with them on September 29 I told them that I understood that Mr. Altman had previously sent something to Mr. Nussbaum on this topic. I don't remember that, but they have both testified to that. And in response to Senator Sarbanes' question last night to Mr. Altman, as to how I could have known that if he hadn't talked to me, he said he didn't have an answer to that question.

Can I just—this is important, if I could.

Mr. JOHNSON. Go ahead.

Ms. HANSON. In addition, Mr. Sloan's notes from our September 30 conversation, the first item states Altman's files, *New York Times*, August 3, 1992—

Mr. JOHNSON. I am going to stop you, because I have got the little yellow light that our friend from North Carolina, Mr. Neal, talked about. And I wanted to ask one more question.

You stated that you worked directly for Mr. Altman, that you were his—he was your immediate superior; and yet Mr. Altman just this morning told us that he didn't have anybody under him, he did not manage anybody. And I would like to know why you said that, if what Mr. Altman says is true, one; and two, why he didn't use Mrs. Kulka in lieu of you because she was in the RTC line and you weren't.

Ms. HANSON. Let me make sure that I understand your question.

In terms of the organizational chart of the Department of Treasury, my understanding is that I report directly to the Deputy Secretary and through him to the Secretary.

Mr. JOHNSON. The Deputy said he didn't manage anybody; and more specifically, it was asked if he managed you, and he said no.

Ms. HANSON. Well, that is my understanding of the organizational chart. We can get the organizational chart and look at it to answer the question, but that is my understanding.

In terms of Ms. Kulka, Ms. Kulka came aboard on January 17, as the permanent general counsel of the RTC, and she reported directly to Mr. Altman in his capacity as the interim CEO and dealt with him directly and spoke with him directly.

Mr. JOHNSON. Thank you. My time is up.

The CHAIRMAN. The time of the gentleman has expired.

The Chair will ask the witness if she wishes an opportunity to complete her answer.

Ms. HANSON. I would, sir.

The CHAIRMAN. Because she stated that it was important, and I think that witness should have that opportunity.

Ms. HANSON. Thank you, Mr. Chairman.

As I stated, this is the question of Mr. Altman asking me to go to the White House. As I stated, I recall meeting with him. Mr. Sloan's and Mr. Nussbaum's testimonies indicate that I first stated something to the effect that Mr. Altman had conveyed something to Mr. Nussbaum on this previously.

Mr. Sloan's notes from September 30, that I understand this committee has, the first item—and these are notes of my telephone conversation with him—he says, Altman's files *New York Times*, March 3, 1992, Altman thinks—which was information I was conveying, which was clearly followed up, clearly a followup with Mr. Altman on my part.

My September 30 memorandum to Mr. Altman states that I have spoken with Mr. Nussbaum and Mr. Sloan, and asks, what more should we be doing about these press leaks? And I recall that Mr. Altman gave me from his files at about that time, either in the initial meeting with him or shortly after, a *New York Times* article from his file that he had his secretary bring in, and he took it out of his file, which is the same document which I produced in my document production that was sent to Mr. Nussbaum by fax in March 1993; and that was referred to in Mr. Sloan's notes, and that was found in my files, and that is an RTC clippingsheet that Mr. Altman gave to me at that time.

And, in addition, Mr. Roelle, I understand, has testified to a conversation that he had with Mr. Altman in October—October 6, I believe, where he was telling about press inquiries; and Mr. Altman

made a telephone call to me and told me to call, among other people, Bernie—to tell Bernie and Jack.

So, as I state, I have a very firm recollection that I had the responsibility to speak with Mr. Nussbaum, and that Mr. Altman gave me that responsibility.

The CHAIRMAN. And by "Bernie," you meant Mr. Nussbaum?

Ms. HANSON. Yes, sir.

The CHAIRMAN. And now our next Congressman to be recognized, Bernie Sanders.

Bernie.

Mr. SANDERS. Thank you, Mr. Chairman. It wasn't me.

Ms. Hanson, I would first confirm that this was not the Bernie that you were talking about; right?

I would just like to ask you a few questions. I have been concentrating on the February 2 meeting, and would like to ask you about that meeting when Mr. Altman discussed his intention to step down from official responsibility for the Madison Guaranty investigation and its intention to follow the RTC staff recommendations on whether to file suit.

In your view, Ms. Hanson, when Mr. Nussbaum criticized Ms. Kulka as being tough, was it an implied request not to let her make the decision about whether to file civil suits relating to Madison Guaranty? Was that what he meant by that expression?

Ms. HANSON. I don't know what he meant by that statement. I understood it to say that she was a tough litigator, but I don't know what he meant by that statement.

Mr. SANDERS. OK. Anybody else have thoughts on that? OK.

Do you think that he was making a request for a special treatment?

Ms. HANSON. I didn't understand that, sir. No.

Mr. SANDERS. You didn't understand the question?

Ms. HANSON. No, I didn't understand him to be requesting special treatment. I understood him to be concerned that the process was fair—would produce a fair result.

Mr. SANDERS. Not to be requesting special treatment.

Ms. HANSON. That's correct.

Mr. SANDERS. Are you aware of any other occasions where a White House official, including Mr. and Mrs. Clinton, indicated to a Treasury or RTC official that he or she did not want Altman to step down or did not want Ms. Kulka to make the substantive decisions relating to the Madison Guaranty investigation?

Ms. HANSON. No.

Mr. SANDERS. OK. Mr. Chairman, I would yield back the balance of my time. Thank you.

The CHAIRMAN. The gentleman yields back the balance of his time.

Ms. Pryce. Pardon me, Mr. Bereuter is seeking recognition, and I am obedient to the minority's order of recognition.

Mr. BEREUTER. Thank you, Mr. Chairman.

To pursue this line of questioning, however, I yield to Mr. Lazio.

Mr. LAZIO. Let me just clean up something for a minute. I want to address this to Mr. DeVore.

Ms. Hanson has testified that she believed that it was you, Mr. DeVore, that might have told her or suggested that she review the criminal inquiries. Is that true?

Mr. DEVORE. I don't recall such a meeting.

Mr. LAZIO. Can you categorically say that you never suggested that she review the inquiries?

Mr. DEVORE. I don't recall any discussion at all about the criminal referrals beyond a discussion about the fact that a referral had been made on October 8.

Mr. LAZIO. OK. Let me address some questions to you, Ms. Hanson, if I can for a moment. Because I am concerned about the ethical precedents we are going to be setting here at the conclusion of these hearings. And I had heard from some of my colleagues who have been suggesting that there is partisanship involved in this. And let me say this, that the precedents that we set here for the Presidency, and there will be Republican Presidents and there will be Democratic Presidents and they will both have to live by these rules or they are both going to be referring back to the conclusions of these hearings.

So for the time that we have, let's talk about the circumstances involving your discussion with Mr. Nussbaum where you have disclosed the contents of the criminal referrals as related to you by Mr. Roelle. And at that time we didn't have any actual leaks involving the contents of those referrals; is that true?

Ms. HANSON. I didn't have any actual knowledge that a leak had occurred at that particular time, but I didn't know that hadn't occurred either since it had been 2 days since I had spoken with Mr. Roelle who told me that leaks were imminent.

Mr. LAZIO. Anything can be leaked at any time.

Ms. HANSON. It was clear to me that these were going to be leaked, and they were, and I was right.

Mr. LAZIO. What happened in the future is not relevant. It is what happened at that time that you breached the confidentiality that one would ordinarily have, and told Mr. Nussbaum, that is what is at play here.

Ms. HANSON. I don't believe I breached the confidentiality.

Mr. LAZIO. Let me ask you this question, if I can. Would you have done that if the reference in a criminal referral was someone other than the President and the administration?

Ms. HANSON. We have our ethics person here.

Mr. LAZIO. I am asking what you would do.

Ms. HANSON. There is, to my knowledge, no law, rule, or regulation that prohibits executive branch officials from speaking with each other if there is a proper governmental purpose. So there are circumstances that I can think of where it would be a proper governmental purpose to communicate that information between executive branch officials. There are also other cases I can think of that it wouldn't be.

Mr. LAZIO. Does that mean that based on what you did in this case, relying on the possibility or the potential for press leaks, that if there were a potential or possibility for a leak that may involve somebody else in the administration, that you would also feel as though you could take information from a confidential criminal referral and pass it on to somebody else in the administration?

Ms. HANSON. Let me back up to say again—and I hope we are not talking at cross purposes here. As I say, we have our ethics officer here.

Mr. LAZIO. I think it is important what your state of mind is.

Ms. HANSON. I believe as I stated that it is perfectly proper for executive branch officials to talk with each other about nonpublic information as long as they are doing it for a proper governmental purpose. And they can't do it if it is going to be for personal gain, and so forth.

Mr. LAZIO. And that's what you did in this case.

Ms. HANSON. And the Office of Government Ethics has so found.

Mr. LAZIO. In this case, you took nonpublic information and passed it on. You are claiming it was for a proper governmental purpose.

Ms. HANSON. The Office the Governmental Ethics has agreed.

Mr. LAZIO. Could you confirm that is the case? You took nonpublic information and passed it on?

Ms. HANSON. Yes, the information—the information was not public at that point, to my knowledge. It may have already been leaked. But it was not relevant that it had been leaked or not leaked, as long as it was communicated for a proper government purpose.

Mr. LAZIO. It is extremely relevant in my mind.

The CHAIRMAN. Mrs. Maloney.

Mrs. MALONEY. Thank you, Mr. Chairman.

Ms. Hanson, did the independent counsel find that you violated any criminal law?

Ms. HANSON. No, Congresswoman.

Mrs. MALONEY. Did the nonpartisan Office of Government Ethics find that you have violated any ethical statute?

Ms. HANSON. No, ma'am.

Mrs. MALONEY. Have you done anything illegal or unethical of which the independent counsel or the Office of Government Ethics is unaware?

Ms. HANSON. No, ma'am.

Mrs. MALONEY. There have been some reports in the press that there are a lot of tensions in the Treasury Department. Have you been put under any pressure to change your testimony or put under any pressure in any way?

Ms. HANSON. No.

Mrs. MALONEY. Has anyone in the Treasury Department indicated that you should resign or that your job is in any type of jeopardy?

Ms. HANSON. No.

Mrs. MALONEY. There have been a lot of reports and contradictions on testimony. Mr. Altman, in your view, testified truthfully in front of the Senate? You were sitting right there.

Ms. HANSON. I think Mr. Altman has testified extensively about his testimony. And I believe that Mr. Altman testified to the best of his knowledge and recollection.

Mrs. MALONEY. Did you see any of the letters that he sent to this committee?

Ms. HANSON. To this?

Mrs. MALONEY. To our committee and to the Senate?

Ms. HANSON. I am aware that he sent a number of letters to the Senate.

Mrs. MALONEY. Yes, those letters and we have them here in our briefing books.

Ms. HANSON. I have seen all of them. I wasn't aware of the existence of the last two letters for some period of time after they existed.

Mrs. MALONEY. Do you consider them to be truthful?

Ms. HANSON. Congresswoman, I would have to go through each one of them. As I say, I am not sufficiently familiar with the letters to testify about all of them without having them in front of me.

Mrs. MALONEY. Do you think Mr. Altman's account of the February 2 meeting was truthful?

Ms. HANSON. His account where?

Mrs. MALONEY. Of the February 2 meeting before the Senate committee.

Ms. HANSON. I don't recall his account off the top of my head. I would have to look at the testimony. I really don't recall exactly what was said.

Mrs. MALONEY. When Senator Gramm asked Mr. Altman on February 24 about contacts with the White House, did you wonder why Mr. Altman didn't refer to his contacts with the White House on recusal?

Ms. HANSON. I can't place that particular question. Senator Gramm asked him a lot of questions. And I did have a question as to why he hadn't mentioned recusal.

Mrs. MALONEY. Do you think that Mr. Altman ducked the question on recusal?

Ms. HANSON. I don't know. I haven't spoken with Mr. Altman about it. I intended to, but events overtook and I have never had a conversation with Mr. Altman about it. I don't know the answer.

Mrs. MALONEY. At the time on the tapes they were showing last night, you were sitting behind Mr. Altman on February 24.

Ms. HANSON. Yes.

Mrs. MALONEY. Do you have any indication that Mr. Roelle mentioned to Mr. Altman about the possible criminal referral?

Ms. HANSON. At any time?

Mrs. MALONEY. In March.

Ms. HANSON. Of 1993?

Mrs. MALONEY. Right.

Ms. HANSON. I don't know.

Mrs. MALONEY. You don't know.

Do you have any information as to whether Mr. Altman advised the White House in 1993 on any aspect of the criminal referrals?

Ms. HANSON. If Mr. Altman advised the White House at any time in 1993 on the criminal referrals?

Mrs. MALONEY. Right.

Ms. HANSON. I have no knowledge of that. I know that there were two faxes sent to Mr. Nussbaum. Those were newspaper articles but I don't know of any other.

Mrs. MALONEY. Did Mr. Altman in March or April discuss with you any issues related to possible criminal referrals?

Ms. HANSON. March or April of—

Mrs. MALONEY. Of 1993.

Ms. HANSON. Of 1993?

Mrs. MALONEY. Yes.

Ms. HANSON. I don't recall hearing anything about the referrals, other than I had seen a newspaper account during the campaign, until I received a call out of the blue from Mr. Roelle on September 27.

Mrs. MALONEY. Mr. Steiner, your diaries have attracted more attention than any since Sidney Biddle wrote the "Mayflower Madam."

Mr. STEINER. I am not sure I agree with the comparison but I agree with the sentiment.

Mrs. MALONEY. Do you think that is because you are such a gifted writer? However, the substance of your entries have been the subject of much controversy because they contradict the testimony given to the testimony committee by many witnesses.

I would like to go over the entries and ask you a few questions about each passage. Last week we heard from White House staff, including former counsel Bernard Nussbaum, there was no undue pressure on Roger Altman to recuse himself. And yet you wrote in your diary, and I quote, "At a fateful White House meeting Nussbaum, Ickes, and Williams of the White House staff told R.A. that it was unacceptable." Yet, other people have said that there was no such pressure.

Were you at this meeting when this took place?

Mr. STEINER. Congresswoman, I was not at that meeting and at no time did Mr. Altman or anyone say to me that Mr. Nussbaum had pressured him vis-a-vis recusal.

The CHAIRMAN. The time of the gentlelady has expired.

Mr. Johnson.

Mr. JOHNSON. Thank you, Mr. Chairman.

I yield my time to Ms. Pryce.

Ms. PRYCE. Thank you.

Ms. Hanson, as you prepared for your depositions before the Senate, and your interviews for preparation for these hearings, were you, like Mr. Bentsen and Mr. Cutler, privy to the confidential and unfinished IG report?

Ms. HANSON. No, I was not.

Ms. PRYCE. Were you aware that Secretary Bentsen had requested them?

Ms. HANSON. I knew that Secretary Bentsen had requested that the IG look into—the factfinding to assist the Office of Government Ethics in reaching their conclusion.

Ms. PRYCE. Were you aware of the fact that he requested those reports be sent to him before the investigation was completed?

Ms. HANSON. No.

Ms. PRYCE. Were you aware that Mr. Cutler had access to these reports in his preparation for these hearings?

Ms. HANSON. I only know what I have read in the papers.

Ms. PRYCE. But you had no independent knowledge of that.

Ms. HANSON. No.

Ms. PRYCE. Is it standard to release these interviews before the reports are complete?

Ms. HANSON. I don't know the answer to that. I don't know what the policy is.

Ms. PRYCE. Do you think that you could have benefited from reading them ahead of time?

Ms. HANSON. Other people's testimony?

Ms. PRYCE. Yes, in relation to your own, of course.

Ms. HANSON. It would have been helpful.

Ms. PRYCE. Do you think Mr. Cutler benefited from reading them ahead of time?

Ms. HANSON. I don't know. I understand Mr. Cutler was preparing his report and he used that testimony to complete his investigation and complete his report.

Ms. PRYCE. Mr. Foreman, let me ask you, do you believe that that was appropriate for Mr. Bentsen to have requested them for Mr. Cutler's benefit before he was to testify before this committee?

Mr. FOREMAN. As I understand it, that was a decision that was made by the deputy inspector general, Congresswoman, and I don't try to give the inspector general advice on how they deal with their own documents.

Ms. PRYCE. Well, in your experience, is it routine? Is it something that you have ever heard of before.

Mr. FOREMAN. Congresswoman, I would have to know all the facts and circumstances surrounding that. I have seen testimony and comments in the papers that those were provided to Mr. Cutler under very strict conditions. I don't otherwise know anything about it.

Ms. PRYCE. But my question to you is, have you ever seen it happen before?

Mr. FOREMAN. I don't know of a situation like this before where there has been a combined situation. I am not trying to duck your question. I don't know of any situation where that has happened before. I don't know of a situation like this one.

Ms. PRYCE. It would certainly help one to prepare to testify, is that correct, would you say?

Mr. FOREMAN. My understanding was that witnesses were not able or permitted to have access to those transcripts until Senate depositions were completed. But that's my understanding of what occurred. I was not part of the decisionmaking.

Ms. PRYCE. But we had no depositions in relationship to these hearings, but Mr. Cutler did testify before us and I just wonder if you had thought that he could have benefited by having read all the witnesses from Treasury prior statements.

Mr. FOREMAN. I think Mr. Cutler was conducting an investigation for the White House on what occurred here. And I think that is why he got access to the transcripts.

Ms. PRYCE. I think that that report had been completed at that time. I could be wrong, but that is certainly my understanding.

All right, Mr. Chairman, I would like to yield the balance of my time to Mr. King.

Mr. KING. Thank you, Ms. Pryce.

I have only about a minute now. I will be coming back in a few minutes.

You said before that Mr. Altman's decision not to recuse himself or to reconsider his recusal on February 2, February 3, made people in the White House happy. Now, whether or not you, in your legal opinion, felt that it had any real impact on the RTC's deci-

sion, whether or not Mr. Altman recused himself, the fact that the White House thought it was important, the fact that they thought there was some advantage to Mr. Altman staying in that position, under those circumstances do you think it was appropriate for Mr. Altman to not recuse himself or at least put off the decision for 2 or 3 weeks, since it was clear to him and probably clear to you that the White House thought it was to their advantage?

Ms. HANSON. As I have stated, the decision on recusal was a personal decision for Mr. Altman to make himself. I think he heard—he heard it was said and, as I say, Mr. Nussbaum made a very compelling case when he was here and I think he took that into consideration. As I stated, that is not what I would have done, and I stated that if I were in his position, I would have recused myself. But it was a personal decision.

Mr. KING. But it was clear to you that it made the White House happy?

The CHAIRMAN. The time of the gentleman has expired.

Mr. Barrett.

Mr. BARRETT. Thank you.

I would like to address the implicit suggestion that there is something wrong with Mr. Cutler being involved looking at testimony or people's comments. Since he was not an actor in any way in this drama as it was unfolding, I frankly, don't see how he could gain much information unless he did, along with interviews, review testimony. So I don't see any wrongdoing there.

I would like to turn, Ms. Hanson, if I could, back to September 27 when you got the phone call you probably wish you hadn't gotten from Senior Vice President William Roelle, who called to tell you about the nine criminal referrals related to Madison.

You stated that you clearly understood from the referrals and the information about them would be leaked to the press when they arrived in Washington, which in fact did occur very close in time to Mr. Roelle's call.

What was your understanding of why he was calling you?

Ms. HANSON. As I stated, I recall that he started out his conversation with me by a reference to Mr. Altman, so I understood that he had either spoken with Mr. Altman and Mr. Altman had asked him to talk to me, or he had called Mr. Altman's office and his call had been referred to me.

It turns out, in fact, I have recently discovered that Mr. Altman did, in fact, speak with Mr. Roelle, and in the middle of the conversation, as I understand it, asked Mr. Roelle to speak with me about the matter. So I understood that he had been asked to talk to me.

Mr. BARRETT. So it was clear to you that you were supposed to talk to someone, and apparently that person or maybe explicitly that person was Mr. Altman; is that correct?

Ms. HANSON. Yes.

Mr. BARRETT. There seems to be some dispute—and perhaps you can confirm this—Mr. Roelle, from what I understand, disputes or states that he told you only to tell Mr. Altman. Can you comment on that?

Ms. HANSON. I understand that Mr. Roelle has said that and I don't recall that. And I don't believe he said that. If he had said

that, I am certain that Mr. Altman and I would have discussed that, and in connection with talking—the decision to talk with Mr. Nussbaum. So I don't believe that that happened.

Mr. BARRETT. You felt it was appropriate to call Mr. Nussbaum because? Why was it appropriate in your mind? Because we are talking about nonpublic information. What exception did you feel this—

Ms. HANSON. As I stated, I believed that—and the Office of Government Ethics has agreed, that the information was going to leak to the press, that because the President and the First Lady's names were included in the referrals that there were going to be press inquiries and that the White House, the counsel's office, and the press people would have to be prepared for press inquiries and needed the information in order to make sure that the press reports were accurate and were not misstating or mischaracterizing the referrals or the President and the First Lady's involvement in them.

And, in fact, there was—there was inaccurate press information. The October 14—one of the issues that Mr. DeVore had learned from a reporter was that the referrals were being held up at the RTC and not being forwarded to the Justice Department, with the implication that either Treasury or the White House was interfering in the proper processing of those referrals. And it was important to be in a position to correct that information.

Mr. BARRETT. And I agree with you that that was appropriate. From your conversations with Mr. Nussbaum or anyone else—and when I say agree that it was appropriate, I agree that it was appropriate for the White House to know that they were about to get a political attack from leaked information coming from the RTC.

From your conversations with Mr. Nussbaum or anyone following this initial conversation, did you come away with the impression that it was going to be used for any purpose other than responding to press inquiries?

Ms. HANSON. Absolutely not.

Mr. BARRETT. No other questions. I yield back the balance of my time.

The CHAIRMAN. The gentleman yields back the balance of his time.

Mr. Linder—I mean, Ms. Pryce.

Ms. PRYCE. Thank you, Mr. Chairman. It gets confusing. I yield my time to Mr. King once again.

Mr. KING. Thank you, Ms. Pryce.

Ms. Hanson, I think I am the last you are to get so your ordeal is almost over.

Like Mr. Bacchus, I was struck by the remarks in your opening statement where he points out that you are nonpolitical and totally professional, and you are not part of the inner circle, or the Inside-the-Beltway group. That maybe could also work against you.

And let me just give you two points and then ask you to comment on them, and I am not trying to put you on the spot on this. But last night, when Mr. Altman was showing the tape of his February 24 testimony, and he seemed to make a point of noting when he turned around to whisper to you or you whispered to him, and

into an open mike one of the Senators said, "Is he trying to blame it on her." That is the first point I want to make.

Second—actually, the first point for your consideration. Second today is when Senator D'Amato was questioning Secretary Bentsen he made the analogy, he said, talking about Mr. Altman, he said, Mr. Altman, it seems to me, to be the kind of guy, if he was on a sinking ship, he throws the women and children overboard. I think that is what he did with Ms. Hanson; I think that is what he did with Mr. Steiner.

I can say that, from listening to your testimony carefully, I think certainly within the bounds of propriety you have defended Mr. Altman at every turn. I say within the bounds of propriety. Quite honestly, I do not see Mr. Altman doing the same to you. Do you feel at all like you are being hung out to dry?

Ms. HANSON. Well, understanding the position that Mr. Altman is in, I can understand why he would want to blame me for things, but I won't return the favor.

Mr. KING. Thank you. I appreciate that.

Earlier, before, you said that—by the way, let me also make the parenthetical remark I admire someone, I admire someone who is loyal and does so within the bounds of propriety, and you certainly have my admiration for that. I come from the school of politics where you don't throw people overboard.

You stated before that Mr. Nussbaum was an advocate at the February 3 meeting. What exactly was he advocating?

I would also like to ask this, and I will just leave it at this, what was his demeanor when he was making that advocacy position?

Ms. HANSON. Well, he was excited at the beginning of the conversation. As I say, you have seen—

Mr. KING. This is on the recusal he was excited. You would say he was excited?

Ms. HANSON. Yes, he was excited.

Mr. KING. Was he raising his voice?

Ms. HANSON. He did at the beginning—at the beginning of the meeting.

Mr. KING. Now, I believe Mr. Ickes spoke at the meeting and Ms. Williams spoke at the meeting leaning against recusal, or one way or the other opposing Mr. Altman's recusal. Would you say from being at the meeting that it was Mr. Nussbaum's advocacy that had the biggest impact on Mr. Altman?

Ms. HANSON. Yes, I would. Yes, I would say that. I think Mr. Altman heard what Mr. Nussbaum had to say. And as I stated, Mr. Altman and Mr. Nussbaum have known each other for some time and Mr. Nussbaum is an advocate. He is forceful in his positions and I believe that Mr. Altman understood that by knowing him.

Mr. KING. So you think that Mr. Nussbaum was able to change Mr. Altman's mind, or at least cause him to reconsider because of the logic of his arguments or because of the intensity of his arguments and the fact that he was speaking for the White House and he was letting Mr. Altman know this would make the White House happy if Mr. Altman reconsidered?

Ms. HANSON. You will really have to ask Mr. Altman that question. I don't know the answer.

Mr. KING. Mr. Chairman, I yield back the balance of my time, and again I commend Ms. Hanson for her loyalty.

Ms. HANSON. Mr. Chairman, if I could.

Mr. KING. Oh, sure, you have time to make——

Ms. HANSON. If I could. Congressman Leach earlier, I believe, entered into the record 13 redacted pages that was a legal memorandum and also a portion of the testimony of Glion Curtis in front of the inspector general.

I have and I would like to enter into the record the testimony in front of the inspector general of John Bowman, who was shown the same document, and if I could read into the record, it says:

OK for the record. Do you recall Mr. Curtis possibly copying this document—the document meaning the summary of these criminal referrals, the one you just reviewed, which he says he had never seen before—and providing this document to Ms. Hanson? I don't recall that, no.

And I would like to enter this into the record.

Mr. Bowman states clearly in this IG testimony that he had never seen this document before either, and I believe Congressman Leach's understanding was that this took place in a meeting of Mr. Curtis and Mr. Bowman and me.

Mr. LEACH. Mr. Chairman, point of clarification, if I could.

I think it is excellent to put that document in the record, but so that there is clarification, I did not put in the record the 13 pages, just the cover page.

Ms. HANSON. It was all redacted.

Mr. LEACH. Because it was all redacted.

Second, just so that there is no misunderstanding because there might have been one and there is a critical point. What I was referencing that Glion Curtis testified, or swore that he had provided you, was the 13-page analysis of the referrals, not the referrals. I think you are——

Ms. HANSON. No, this is—Mr. Bowman was asked about the same document. It is the same document in his IG testimony.

Mr. LEACH. The same document, but you were referring to the referrals. It was your quote about the referrals and about the analysis of the referrals.

Ms. HANSON. It was the—it is all redacted. Does your document say who it was from and who it was to?

Mr. LEACH. No, no.

Ms. HANSON. It doesn't?

Mr. LEACH. Yes, it does. Yes, it does.

The CHAIRMAN. Well, before we act on the gentlelady's request, I want to know if the committee or the majority has ever had that document?

Mr. LEACH. Mr. Chairman, neither the minority nor the majority have been formally supplied the document. We have the cover sheet for the document, and I think both sides have it. And so the cover sheet that indicates who it is from——

Ms. HANSON. But I understood——

Mr. LEACH. We also have the IG document, which is referenced, and both sides have that. And then we have the Dudine notes, at least the minority's notes, but the majority was in the meeting.

[The information referred to can be found in the appendix.]

The CHAIRMAN. What is it precisely, then, that Ms. Hanson is attempting to offer for the record now?

Ms. HANSON. I understood that Congressman Leach had put into the record the testimony of Glion Curtis.

Mr. LEACH. Yes, that is correct.

Ms. HANSON. Indicating that I had attended a meeting with Mr. Curtis and Mr. Bowman during which I not only saw but was given a copy of a legal analysis of the criminal referrals. This is Mr. Bowman's IG testimony on the same subject saying that that never occurred.

The CHAIRMAN. Was not this the document that Mr. Neal objected to?

Mr. LEACH. I thought at the end Mr. Neal acceded.

The CHAIRMAN. Pardon?

Mr. LEACH. I thought at the end Mr. Neal acceded. I may be wrong.

The CHAIRMAN. OK. OK. I just wanted to make sure we were talking about the same document.

Is there any objection to offering this for the record at this point? Hearing none, it is so ordered.

[The information referred to can be found in the appendix.]

The CHAIRMAN. Let's see.

Mr. DEUTSCH. Thank you, Mr. Chairman.

The CHAIRMAN. Well, just a minute. Will you hold?

Ms. Furse has been here, and the reason I do this is that when members absent themselves for a good chunk of time and other members have been here all through the testimony. I have noticed that the absent member will generally repeat a question or a subject matter that has already been addressed. So if the gentleman will allow the Chair, I would like to recognize Ms. Furse.

Ms. FURSE. Oh, thank you, Mr. Chairman.

Well, I am very anxious to get on with the factfinding again. And I think the questions I have heard are probably fascinating to those who are asking them, but I think often they are also off the point. So I want to get back to the, what I think are relevant questions.

I would like to ask Mr. DeVore, and you will forgive me if I just get back to boring facts. Mr. DeVore, when did you first learn about the criminal referrals relating to Madison Guaranty?

Mr. DEVORE. When did I first hear that this was in the works?

Ms. FURSE. And who did you hear that from?

Mr. DEVORE. I heard it on October 11, 1993, from a newspaper reporter.

Ms. FURSE. So your knowledge of these criminal referrals came primarily from a reporter's inquiry to you?

Mr. DEVORE. Yes.

Ms. FURSE. Did you, Mr. DeVore, ever see the criminal referrals?

Mr. DEVORE. No.

Ms. FURSE. Did you ever have detailed knowledge of the substance or the merits of the RTC investigation into Madison Guaranty?

Mr. DEVORE. No, ma'am.

Ms. FURSE. Thank you. Mr. DeVore, and thank you for your very direct factual responses to me. I believe I would like to yield some time to Mr. Frank.

Mr. FRANK. I thank the gentlewoman. And I want to stress the implications of the question of the gentlelady from Ohio, Ms. Pryce, who is not here, about it being unfair to Lloyd Cutler. To some extent that is kind of the paradigm of a desperate searching to find something wrong when nothing happened.

Ms. Pryce, I am sorry she is not here, but we have no option but to go forward. She said there was something unfair because Mr. Cutler had seen these reports and Ms. Hanson hadn't. What is unfair is that question.

Mr. Cutler, unlike everybody else who testified, was not testifying about any events in which he had been a participant or about which he had any firsthand knowledge. Mr. Cutler was testifying about the results of an investigation. Now, to ask a man to conduct an investigation and then be critical because he is allowed to see investigatory materials seems to me a bit harsh.

Had Mr. Cutler not seen what other people had said, he would have sat there for a couple of hours and said nothing. The fact is you don't want people perhaps to read the testimony of other people, if it might influence what they say about what they did. All of these people who had been involved in some places, you might not want them to read the testimony, lest it influence their own recollection. But Mr. Cutler had an entirely different purpose.

And, frankly, for Ms. Pryce to suggest there is something inappropriate or improper or unfair for Lloyd Cutler to have seen these, because he was therefore treated differently than other people, is, to me, an indication of the reaching that is going on here. We talk about long-arm statutes in the law. I think we have some of the longest arms I have ever seen here. They are reaching and reaching and reaching. And there is a general maxim, I think, that is relevant. If there was anything serious to talk about, people would talk about it.

When Mr. Cutler is somehow criticized because he was allowed to read inspectors' general reports on which he was supposed to give us his opinion, and when he is criticized because he was allowed to read reports about events in which he had not participated so he can give an opinion about them, unlike people who are not allowed to read reports about events in which they had taken part, lest it color their recollections, I think that is a pretty good example of the level of criticism we are getting here.

And I know people have been blaming the 5-minute rule. If that is the kind of stuff you are going to do, you could have a 5-hour rule, you could have a 5-year rule, you could have a 5-millenia rule. Five hundred minutes of nonsense is still nonsense.

I thank the gentlewoman from Oregon.

Ms. FURSE. I yield back the balance of my time, Mr. Chairman.

The CHAIRMAN. The gentlelady yields back the balance of her time. Mr. Linder.

Mr. LINDER. Thank you, Mr. Chairman.

I would just like to make one comment, Ms. Hanson, about your assertion that Nussbaum was a harsh or a tough advocate against recusal. Mr. Altman said the same thing. Mr. Nussbaum doesn't say that. While he said that Mr. Altman should do the job he was hired to do, he said, I specifically did not advise him on recusal.

I told him to think about it and make up his own mind, and I think that needs to be cleared up.

Ms. HANSON. Oh, absolutely. I, certainly, agree with that. To make the record clear, Mr. Nussbaum gave his views but left the decision to Mr. Altman. There was no statement than he disagreed with the decision.

Mr. LINDER. I yield to Mr. McCandless.

Mr. MCCANDLESS. I thank the gentleman for yielding.

Mr. Steiner, at yesterday's hearings in the Senate, Senators from both sides asked you questions about the entries in your diary.

Mr. STEINER. I am sorry, I couldn't hear that, Congressman.

Mr. MCCANDLESS. I said that at yesterday's hearings in the Senate, Senators from both sides of the aisle asked you questions about your diary. Are you able to hear me now?

Mr. STEINER. Yes, I am, thank you.

Mr. MCCANDLESS. Good. For example, Senators Shelby, Faircloth, Kerry, D'Amato, each asked you what you meant when you wrote in your diary, quote, they also asked if staff had met; but RA, Roger Altman, gracefully ducked the question and did not refer to phone calls he had had.

Now, in response to their question you explained that what Mr. Altman, quote, gracefully ducked, unquote, were questions about Treasury-White House contacts, not questions about his recusal. However, Senator D'Amato informed you that he had a conversation with Mr. Altman the night before the Senate's hearing and told him specifically that he would be asked about the Treasury-White House contacts. Despite that conversation with Senator D'Amato less than 24 hours before he testified, Mr. Altman did not mention all the Treasury-White House contacts that occurred.

My question is, is it still your belief that Mr. Altman was candid and forthright with the Senate?

Mr. STEINER. I believe that Mr. Altman was candid and forthright with the Senate. Perhaps it would be helpful, Congressman, and as best I can, to try to reconstruct the events and why I might have written what I did. I believe Mr. Altman drew a distinction——

Mr. MCCANDLESS. Thank you.

Mr. STEINER. May I finish, if I might?

Mr. MCCANDLESS. You answered my question, thank you.

Mr. STEINER. I was trying to——

Mr. MCCANDLESS. I am on a limited amount of time here. You have seen it all afternoon.

My second question also is a followup on the Senate hearings. Senator Riegle asked you whether the following passage was accurately transcribed from your diary.

Quote, once again, they were very concerned about turning to RTC people they didn't know, so RA, Roger Altman, did not formally commit himself to stepping down, parenthesis, he could stay on if we had formally nominated a successor, end of parenthesis, end of quote.

Obviously, a reasonable person could interpret that entry as meaning the White House wanted to keep Mr. Altman at the RTC to maintain political control over an independent agency. If Mr. Altman were to recuse himself, for example, the decision whether

to file civil actions against individuals connected with Madison might be left up to tough attorneys.

Did you have an opportunity to determine whether the entry in your diary was correctly transcribed? If not, what should it have said?

Mr. STEINER. I have not checked my diary, sir. I believe——

Mr. MCCANDLESS. I have a copy of it here. I will read it to you. Once again——

Mr. STEINER. Sir, what you have, I believe, is a typed version of a handwritten document. I don't believe the committee has the copy of the handwritten document.

Mr. MCCANDLESS. It says diary of Joshua L. Steiner.

Mr. STEINER. That is what I provided to the committee. I don't believe, sir, you would be able to read my handwriting. So in order to help the committee, I provided a typed copy.

Mr. MCCANDLESS. Well, Mr. Chairman, can we have the handwritten document, then, rather than the typewritten? I can read the typewritten; I don't know about the handwritten.

The CHAIRMAN. What is the gentleman's question?

Mr. MCCANDLESS. Well, I am asking Mr. Steiner a question and he is saying that what I am saying about his diary is not necessarily, if I understood his response, what his handwritten version of the diary actually said. And I am asking the chairman if we may have a copy of, request a copy of the handwritten portion of Mr. Steiner's diary so that we can compare that with the typewritten copy that has been given to me?

The CHAIRMAN. The Chair will again ask the gentleman, whether it is handwritten or typewritten the witness has said that he prepared, because his handwriting is difficult to decipher, a typewritten version.

Now, what is your question?

Mr. MCCANDLESS. My question?

The CHAIRMAN. Yes.

Mr. MCCANDLESS. I thought I made it very plain, Mr. Chairman. He is contesting the fact that I am reading from the actual content of the diary.

The CHAIRMAN. I don't think he is contesting.

Mr. STEINER. Mr. Chairman, if I might.

Mr. MCCANDLESS. It is a typewritten version and I am asking for your permission to see a copy of the written version.

The CHAIRMAN. I don't think the gentleman is contesting anything, because you have not asked him anything.

Mr. STEINER. Mr. Chairman, if I might clarify. I apologize. Counsel has corrected me. We did provide a handwritten copy to the committee. I believe you have that.

Mr. MCCANDLESS. This is a transcription of your handwritten copy.

Mr. STEINER. We checked it, Mr. Congressman. To the best of my knowledge, it is an accurate one. I would like to address the question that you asked me, though.

Mr. MCCANDLESS. Well, I asked you a question. May I repeat the question, Mr. Chairman?

The CHAIRMAN. You may.

Mr. McCANDLESS. Did you have an opportunity to determine whether the entry in your diary was correctly transcribed? If not, what should it have said?

Mr. STEINER. Congressman, I have not had an opportunity to check it. Let me describe to you as best I can the meaning behind what I wrote, which was as follows:

You may recall that Mr. Altman's tenure as RTC Chairman was due to expire at the end of March due to the provisions of the Vacancy Act. The question was whether Mr. Altman would formally announce that he planned to step down at the end of his tenure. There was a provision, as I understand it, in the Vacancy Act, which allowed an interim appointment to stay on in the event a successor had been formally nominated. The question was whether prior to a formal nomination of a successor Mr. Altman would announce his decision to step down on the March 30 date.

Mr. McCANDLESS. Well, my time is up. It doesn't fully answer my question, but as the little red light goes on so we go down in flames.

The CHAIRMAN. Well, the Chair indulged and provided very generous extra time, long after the red light, but that makes no difference. The gentleman can follow through with a written inquiry to the witness.

Mr. Deutsch.

Mr. DEUTSCH. Thank you, Mr. Chairman.

Ms. Hanson, specifically, when did you learn of the criminal referrals, and did you learn of them from Bill Roelle?

Ms. HANSON. Roelle.

Mr. DEUTSCH. Right, what specific timeframe?

Ms. HANSON. I was called by Mr. Roelle late on September 27. That was the first time I had heard anything about Madison Guaranty other than seeing an article in the *New York Times* during the campaign.

Mr. DEUTSCH. And what specifically did he tell you at that time?

Ms. HANSON. He told me—I have previously testified to this here in this proceeding. You want me to go through it again?

Mr. DEUTSCH. Actually, I would like a synopsis. I am trying to get a sense of whether there was a procedure in place for information regarding criminal referrals.

Did you contact Mr. Nussbaum because you had investigated what had been done previously in previous administrations, what the law was, and what ethical standards were?

Ms. HANSON. Well, I understood the Office of Government Ethics regulations. I had read what I believed to be all of them, including the special ethics regulations that applied to the Treasury Department, including the Treasury Department supplemental regulations. So I was very aware of them. I was also aware—

Mr. DEUTSCH. That was prior to making your decision in terms of what to do with the information you had?

Ms. HANSON. Yes. Yes, this was over a period of, a period of months, with intensive regular ethics briefings.

As I stated, I was very familiar with the ethics rules. I also knew, of course, that criminal referrals are very sensitive and have to be handled with sensitivity and care. Information—I never had the criminal referral. All I had was limited information about it

and that limited information was highly sensitive. And I believed and the Office of Government Ethics has agreed and Mr. Cutler has agreed that I had a proper governmental purpose for giving that information to Mr. Nussbaum. Also, the designated ethics officer—he was the designated ethics officer for the Office of the President.

Mr. DEUTSCH. At that point there were press accounts of those referrals? So that was the standard that you thought been reached—

Ms. HANSON. I am sorry, I didn't hear.

Mr. DEUTSCH. Was that the fact that press inquiries were being made and that caused you to contact Mr. Nussbaum?

Ms. HANSON. Yes. I understood that press inquiries were imminent; that leaks were imminent, they were on their way to Washington 2 days before. In fact, I had tried to get hold of Mr. Nussbaum by phone. According to my call sheets I tried to get hold of Mr. Nussbaum on the 28th and was not able to reach him, and then spoke with him on the 29th.

But it was my clear understanding when I spoke with Mr. Roelle on the 27th, as soon as those referrals arrived in Washington, the referral—the existence of the referrals and the information that had been imparted to me would be leaked to the press. And all of the information that was imparted to me has appeared in the press, along with much, much more information about these referrals than I ever knew. And I don't even know if it is correct, because I have never seen them, but there has been extensive information about these referrals in the press.

Mr. DEUTSCH. I have noted Mr. Cutler's article and the statements by former Attorney General Thornburgh regarding his interpretation of the issues of notification of criminal referrals. Did you look at all about prior determinations by other general counsel in other agencies in terms of issues like this, or just the information based on the ethics manuals in terms of your determination to let the White House know of the referrals?

In other words, were there previous examples that you were specifically aware of where this had happened?

Ms. HANSON. I was not aware of specific previous examples. Mr. Foreman and I had, of course, at that point had worked together for some period of time, and he is a designated agency ethics officer. He is a very good teacher, I must say. And I was familiar with those rules and I was unaware that there were any other additional regulations that applied other than to deal with this information as sensitive and with care and with the proper governmental purpose. And I was right, that those are the rules.

Mr. DEUTSCH. Thank you.

The CHAIRMAN. The time of the gentleman has expired.

Mr. Knollenberg.

Mr. KNOLLENBERG. Mr. Chairman, I yield my time to Mr. Thomas.

Mr. THOMAS. Thank you.

Mr. Steiner, it is my understanding that your attorney showed you a handwritten faxed cover sheet of a fax from Roger Altman to Bernie Nussbaum sent on March 23, and that you identified the

handwriting from Roger Altman to Bernie Nussbaum as yours; is that correct?

Mr. STEINER. That is correct.

Mr. THOMAS. Do you recall Mr. Altman asking you to send that fax?

Mr. STEINER. No, sir.

Mr. THOMAS. Do you suppose you would have sent it from Roger Altman without his direction?

Mr. STEINER. I think it is unlikely.

Mr. THOMAS. So you suspect that you were directed by Mr. Altman to send it?

Mr. STEINER. That's correct.

Mr. THOMAS. You know, you have had a lot of questions and this has gone on a long time. The scope of this inquiry is pretty narrow, so we have gone over the same things a few times. Let me just share with you specific questions, take my time, a little perception that I have.

It seems to me that all the testimony that we have had, of course, has come now from the administration. So I don't think it is surprising what we have got; some of the members on the other side are enamored by Mr. Cutler's analysis of what has happened. I am not surprised he is part of the palace guard, he leads the palace guard.

Some are surprised, Mr. Foreman, that you state you and your associates have done nothing wrong. Well, you work for these gentlemen. I am not surprised at that, either.

So, you know, the witnesses, then, and some of the members have sort of had the deer-in-the-headlight look as to what can we possibly be talking about here. Let me share with you at least part of why I think so.

Mr. Steiner, your diary specifically says Roger Altman decided not to recuse himself under, quote, intense pressure from the White House, yet your recollection today contradicts that. Your diary specifically says Roger Altman gracefully ducked the question during Senate testimony, yet you maintained he was truthful.

Your diary quotes folks in the White House as telling Roger Altman his recusal was unacceptable but today you say you have a different definition of unacceptable. Your diary says Bill Clinton was furious about Roger Altman's recusal but now you say you don't know that. You were in the room and your diary uses the word "furious," but now you are not certain.

You had a discussion with Secretary Bentsen in which he asked, quote, where is Madison Guaranty or something to that effect. You told him you didn't know. And then, as any good Chief of Staff does, you never followed up, never found out, never got back to him with that question.

The White House panel says that it is just a press leak and it is no big deal. And yet the entire White House counsel office, folks in the press, political people throughout the Treasury and the White House, are involved in coordinating an effort at least through 40 contacts to try and manage the RTC testimony and limit the damage. So it doesn't seem to me that there is any reason to wonder why these questions go on.

Harrison Weinstein, a former general counsel of the Office of Thrift Supervision, was quoted as saying on Evans & Novak, "It was my understanding that no one identified in the criminal referral as a possible witness would be alerted except by the U.S. Attorney's Office for what the investigating lawyer thought was an appropriate investigative purpose."

That is the end of that quote.

So, you know, when you add it all up, it is no wonder people, not just Republicans, much of the public and even some of the major Democratic Senators, as you know from yesterday, have real doubts about what is going on here, even though those that deny ethical misconduct clearly see that something is amiss.

This thing is about openness in government. So it continues to surprise me that everyone comes big-eyed and says "My goodness, what is happening here?" It is not hard for someone in Worland, Wyoming, to say what is happening. They think they should have an open government, a government where agencies and the White House and regulatory agencies ought to have proper distance, ought to be open. We ought not to have hundreds of lawyers here in the palace guard protecting what is being said and that appears to be the issue.

So I guess it is just an opportunity for me to share my perspective of what is happening. I'm sure you have one, too, but that is a reasonable perspective for people to take as they view this. I think we are entitled to open government. I think we are entitled to, without a great array of defense, to know what goes on in our government.

Thank you very much for the time.

The CHAIRMAN. The gentleman yields back the balance of his time.

Mr. Fields.

Mr. FIELDS. Thank you, Mr. Chairman.

Let me first thank the panelists for their endurance and patience today. It has been a long day and I want to thank each of you for bearing with this committee.

Ms. Hanson, I have just a few questions. I want to clear up a couple of things in my own mind and put a couple of things in hopefully proper perspective. I want to take you back, if I may, to the February 2 meeting.

At that meeting, you suggested to Mr. Altman that he should recuse himself. Now, my question to you, was that your professional opinion or legal opinion as general counsel or was this your personal opinion or advice, rather, as a friend of Mr. Altman, or as a coworker or what have you?

Ms. HANSON. As I have stated, it was not legally required. It was not required by ethics, laws, or regulations that he recuse himself in that situation. So the decision—the recommendation was based on two things: One, that he did not intend to be involved in the decisionmaking in any event, because he said repeatedly that he was going to rely on the recommendation of Ellen Kulka, the general counsel.

And the other factor was that there was tremendous public interest in the issue at the time and concern about the ability to be impartial. And although it was his decision to make—and he could

make a decision not to recuse himself—that was my recommendation as what I thought I would do if I were in his position.

Mr. FIELDS. With you, that advice was more personal advice? That was not a legal interpretation of the law as you have stated?

Ms. HANSON. That's correct. It was only my recommendation. It wasn't legally mandated.

Mr. FIELDS. Did Mr. Altman, to your knowledge, seek any legal advice from any ethics panel, to your knowledge?

Ms. HANSON. Are you asking me the question?

Mr. FIELDS. Yes, ma'am.

Ms. HANSON. I don't recall when formal ethics advice was first requested. I know that when, on February 2, it was known that he didn't have to, it was his decision. There was a formal written ethics opinion that was given to him on the subject that said what I described.

Mr. FIELDS. So one can easily assume that as a result of that conversation with you, Mr. Altman then wanted to seek legal advice from the proper authority and he did and that opinion came back to the effect that he had no legal reason to recuse himself; is that not correct?

Ms. HANSON. Right; the legal advice was consistent.

Mr. FIELDS. Now, let's go back to Mr. Nussbaum's discussion—you were at that meeting, were you not, when Mr. Nussbaum and Mr. Altman were talking about the recusal issue?

Ms. HANSON. Yes, I was.

Mr. FIELDS. Now, at that point, what was your state of mind in terms of what was taking place between the exchange of conversations between the two, Mr. Altman, as well as Mr. Nussbaum? Was it your opinion at that time that Mr. Nussbaum was more concerned about setting a bad precedent with White House appointees of Presidential or political appointees versus pressuring anybody, namely Mr. Altman, to recuse himself or not to recuse himself?

Ms. HANSON. What I remember is, it was my understanding that Mr. Altman had decided to recuse himself before he went to that meeting and I prepared the talking points that included a bullet that said that and I asked him about it before we went to confirm that it was what he had decided to do and he told me, yes, it was that he had decided that he was going to recuse himself and the talking point was fine.

So I don't recall exactly what my thoughts were during the course of that meeting, although, as I listen to Mr. Nussbaum and I have said before, I don't—I didn't—I certainly didn't understand him to be forcing Mr. Altman not to recuse himself or to change his decision or to be pressuring him to do that.

Mr. FIELDS. OK.

So one can easily assume that he did not want to set a bad precedent for a White House appointee or political appointee or Presidential appointee? One can make that assumption, would you not agree?

Ms. HANSON. He didn't say those exact words during the conversation. I heard his testimony last week and his testimony made a great deal of sense to me.

Mr. FIELDS. My last question, Ms. Hanson is, the gentleman from New York mentioned something to the effect of Mr. Altman leaving

you out to dry and you, it appeared from my perspective that you agreed with that. If that is the case, can you explain to me and the committee how is he, in fact, leaving you out to dry? I would like to know.

Ms. HANSON. I don't believe that that is what I said.

Mr. FIELDS. So it is not your impression or your testimony that Mr. Altman is leaving you out to dry; is that not correct?

Ms. HANSON. My answer was my answer.

Mr. FIELDS. And what is your answer?

Ms. HANSON. What I said was I understand that in the situation that—that in Mr. Altman's situation, that he would be inclined to blame me, but I won't return the favor.

Mr. FIELDS. So you feel—I have no further questions, Mr. Chairman.

The CHAIRMAN. The time of the gentleman has expired.

Mr. Lazio.

Mr. LAZIO. Thank you, Mr. Chairman. I yield to the distinguished gentleman from Michigan, Mr. Knollenberg.

Mr. KNOLLENBERG. Thank you, Mr. Lazio.

Mr. Chairman, I want to direct a question to Mr. Foreman.

Mr. Foreman, you were involved in the preparation of Secretary Bentsen's testimony which he was to give to the House Appropriations Committee in early March—I think it was March 10, not to be confused with February 24, but the Appropriations meeting.

Is that not correct?

Mr. FOREMAN. Yes, sir. That is correct.

Mr. KNOLLENBERG. As a part of this, you helped prepare possible questions and answers for the Secretary, is that not correct?

Mr. FOREMAN. Yes, sir. That is very correct.

Mr. KNOLLENBERG. One of the answers you were preparing concerned the Secretary's knowledge of the White House Treasury meetings; is that correct?

Mr. FOREMAN. Yes, sir.

If I can only correct, I think that was for testimony for both March 8 and March 10, but otherwise, yes, sir.

Mr. KNOLLENBERG. At that time, you had no knowledge of what the Secretary knew about the meetings, did you?

Mr. FOREMAN. That is exactly so, sir.

Mr. KNOLLENBERG. Now, I believe you told the committee staff that you were drafting blindly—those words, by the way, appear in the testimony, the commentary, that I have here.

Is that not true?

Mr. FOREMAN. That is so.

Mr. KNOLLENBERG. All right.

When Ms. Hanson was shown the draft answers that the staff had prepared, she sent back comments or notations, if you will, which said that Secretary Bentsen had known in advance about the February 2 meeting; is that not correct?

Mr. FOREMAN. As I remember her handwritten changes to that document, that's correct.

Mr. KNOLLENBERG. In fact, the suggested answer by Ms. Hanson was a direct contradiction to the statement that the Secretary had released on this subject a few days earlier; correct?

Mr. FOREMAN. It was certainly different.

Mr. KNOLLENBERG. Yes. So to bypass the conflicting accounts, you advised Mr. Bentsen not to comment directly on the matter by stating that he could not answer the question because Special Counsel Fiske and the Treasury inspector general's office were looking into the subject; isn't that correct?

Mr. FOREMAN. No, sir. That is not accurate. What I said was that I advised the Secretary that given that he had no opportunity to himself look back—we were going to be talking with him maybe an hour before the actual session on the Hill—that in that hour there was no way that he could appropriately prepare himself to answer that question directly. So I suggested that rather than try——

Mr. KNOLLENBERG. Let me interrupt just a minute because the heart of my question comes down to something else.

What the Secretary said before the Appropriations Committee when he was asked this question—and I have the testimony of that—he said that he could not respond on the advice of Special Counsel Fiske.

Now, I happen to have in my possession—I am sure you have it, too—a letter that was sent to Mr. Fiske from Mr. Livingston from Louisiana, the Congressman from Louisiana, who inquired about, in fact, raised that question in the Appropriations Committee meeting. He refused to answer. He wrote Mr. Fiske. Mr. Fiske returned the answer by saying he did not advise anybody to withhold information. And I have a copy of that letter and I'm sure you do too.

My question—my statement, first of all. Mr. Fiske, as I say, never advised the Secretary not to respond to that question. So, in a way, in a way, Secretary Bentsen's answer was somewhat misleading, somewhat deceptive. He was saying he was under advice from the special counsel when, in fact, he was not.

And, you know, you talk about this whole matter of judgment. You mentioned judgment. I know in your commentary, your testimony, you talk about the issue of judgment. I would say one thing to you about judgment. Good judgment, the old saying goes, comes from experience, and experience comes from bad judgment.

All of you individuals have been hired, appointed, put in place because of your experience, your talent. Not because you didn't have it; you had the experience. The American people, I think, would respond to the fact that since you are, we would like to request of you, if you are, and you are, the Treasury Department's chief ethics officer, did it ever occur to you to just advise the Secretary to just let it all hang out and tell the truth? Did that ever occur to you?

Mr. FOREMAN. May I answer or comment on that question, sir?

Mr. KNOLLENBERG. You may.

Mr. FOREMAN. I did not advise him to say that he could not speak because the special counsel had directed him not to speak. What I did was prepare a general statement that said that——

Mr. KNOLLENBERG. Well, I have the general statement. I know exactly what it says. It says that—it says that you, the author—could be Ms. Hanson, could be you—instructed that he did not have to admit to the fact that he had advance information.

This is something that was created not by me, and it is in the record, and it says "I now believe that Ms. Hanson and Mr. Altman consulted with me in advance of the White House meeting on Feb-

ruary 2, 1994." That was the subject of Mr. Altman's February 24 Senate testimony. I had not previously recollected that discussion.

This was made out to be the statement by Mr. Bentsen. And that had to come from the architecting, the handcrafting of you, Ms. Hanson, or whoever. Do you deny that?

Mr. FOREMAN. I would like to see what he is reading, but I did not—that is not the—may I see it, sir?

Mr. KNOLLENBERG. You, certainly, may. Insert 18-A. It comes with the testimony.

The CHAIRMAN. The time of the gentleman has expired.

The witness will be allowed sufficient time to review, and if he will yield to me at this time.

There is a request from Mr. DeVore to be allowed to refresh himself. Is there any objection if the Chair grants that permission briefly?

Mr. KNOLLENBERG. Mr. Chairman, just to inquire, were you going to allow Mr.—the gentleman—are you going to allow him to respond, as you typically do?

The CHAIRMAN. Mr. Foreman, yes.

Mr. KNOLLENBERG. Mr. Foreman. Which comes first, the—

The CHAIRMAN. Mr. DeVore, you may refresh yourself.

The gentleman is recognized, the witness, to respond to the question.

Mr. KNOLLENBERG. Thank you.

Mr. FOREMAN. Congressman, if I may, what you have handed me is insert 18-A. If I recognize it, and I believe I do, I did not draft this. This, in fact, I believe was drafted by Ms. Hanson along the same lines of what you asked me a few minutes ago dealing with her recollection of what had occurred here.

This is not my draft, sir. I am sorry.

Mr. KNOLLENBERG. But, it was, in fact—you were aware of it?

Mr. VENTO. Regular order.

Mr. FOREMAN. I am sorry, sir?

The CHAIRMAN. The time of the gentleman has expired.

Mr. FOREMAN. Mr. Chairman, may I make one other comment on what the Congressman said that I didn't have an opportunity to just make a brief comment on?

The CHAIRMAN. Yes. The witness is allowed to.

Mr. FOREMAN. Thank you, sir.

I did draft the general statement. I would like to look at it again. I do not believe that it says the special counsel had instructed us not to answer any questions on this. In fact, the morning of that testimony, sir, I called Mr. Stein—

Mr. KNOLLENBERG. Is that what you are looking for?

Mr. FOREMAN. No, sir, that was not used. I drafted that. I can see it from across the room, sir. I did draft that. That—and, in fact, may I read it?

Mr. KNOLLENBERG. Absolutely.

Mr. FOREMAN. If I may read it, sir, this was not used in the end. This was written about 3 or 4 a.m. in the morning. "In order to be sure about my answer, I would need to talk to the people involved and consult my records. I have decided not to do so at this time. As I have stated, Mr. Fiske is doing the factfinding and we are co-operating completely with his inquiries."

If I might say, I do not believe that says that Mr. Fiske has instructed us or directed us not to answer questions. In the event this was not used, sir, this was a draft at 3 a.m. that was not used.

Mr. KNOLLENBERG. So Mr. Bentsen twisted that answer?

The CHAIRMAN. The time of the gentleman has expired and the witness has answered. I believe you have completed your answer.

Mr. Klink.

Mr. KLINK. Thank you.

Good evening, Ms. Hanson. Gentlemen, good evening.

Believe it or not, the world according to Washington, DC is not revolving around these Whitewater hearings and so I apologize for not being able to be here every minute.

If I retread on some grass that was stepped on a little bit earlier, I apologize and I'm going to try to fill in some holes so I might be bouncing around a little bit.

Ms. Hanson, obviously, you have discussed, because I was watching it back in my office, the difference of opinion that you have with regard to the direction that you received or that you say that you received from Mr. Altman to call Mr. Nussbaum about what you thought were imminent press leaks.

In fact, at that point, were there—and I am reading imminent press leaks from your statement today—at that point, were you aware that there were, in fact, press leaks; or you just felt the word would get out that, in fact, the President and First Lady were going to be possible witnesses in this investigation?

Ms. HANSON. I was told by Mr. Roelle that there were going to be imminent press leaks. He was a very good source because he was the Vice President of the RTC, and, in fact, the IG chronology that was released over the weekend shows that the first press leaks on this were September 23, which was before I heard from Mr. Roelle.

So I assume, and that was a statement from James Dudine, who was the head of investigations at the RTC, who I understand spoke with Mr. Roelle. So Mr. Roelle had it on very good authority, and I believed him and I was right.

Mr. KLINK. Your contention at this point is still that Mr. Altman then told you to contact Mr. Nussbaum?

Ms. HANSON. It is.

Mr. KLINK. That is still your intention.

At what point do you believe or do you have knowledge that Secretary Bentsen became knowledgeable of the fact that contacts had been made between you and Mr. Nussbaum in regard to this matter?

Ms. HANSON. As I have stated, I have a September 30, 1993 memorandum that was found in my files during the search for documents responsive to the independent counsel's subpoena. That memorandum says I briefed the Secretary. I don't recall preparing it; I don't recall briefing the Secretary; and it is unclear to me from reading the memorandum whether that memorandum indicates that I told the Secretary about talking with Mr. Nussbaum or only tells him that it was my understanding that there were going to be imminent press inquiries on the Madison criminal referrals.

Mr. KLINK. Of course, all of our recollections fade over time, and we can understand that. Something that does not fade is the writ-

ing in a diary, Mr. Steiner. If I could just ask you a couple of questions.

Why did you write in your diary, if you remember why you wrote that Nussbaum was pressuring Roger Altman not to recuse himself in the Madison matter? Why did you write that?

Mr. STEINER. Congressman, I can't recall the exact reason I chose those words. Let me describe to you, as best I can, what I knew about the situation, which was—

Mr. KLINK. Fine.

Mr. STEINER. That Mr. Altman, as I understood it, was leaning toward or planning to recuse himself prior to that February 2 meeting. He went to the meeting, and sometime after that meeting—I believe it was the same day—he came back and said that Mr. Nussbaum had made some strong arguments against recusal and that he planned to consider that overnight, to sleep on it.

The following day, he decided not to recuse himself at that time. When I was writing this, it may have been my impression that those strong arguments were some sort of pressure, but at no time did Mr. Altman say to me “I feel pressured.”

Mr. KLINK. A lot to get to, and these 5 minutes go very fast. Let me just ask each of you. I will start with you, Mr. Steiner.

Did George Stephanopoulos or Mr. Ickes or anyone else at the White House that you know of try in any way to have Jay Stephens fired?

Mr. STEINER. Let me be clear, because I think this is important. Mr. Stephanopoulos said to me that he thought Mr. Stephens faced a clear conflict of interest; that that conflict of interest should disqualify him.

I explained to him that even if it should disqualify him, we were in no position to do anything about it.

Mr. KLINK. Did he want him to be fired? Was it your understanding or was it said at any time by Mr. Stephanopoulos or anyone at the White House—and I would like each of the other people to answer this question too—do any of you have any knowledge that Mr. Stephanopoulos, Mr. Ickes, or anyone else at the White House made any attempt to have Jay Stephens fired or in any way severed?

Mr. STEINER. No, sir.

Mr. KLINK. Mr. DeVore.

Mr. DEVORE. No, sir.

Mr. KLINK. Mr. Foreman.

Mr. FOREMAN. No, sir.

Mr. KLINK. Ms. Hanson.

Ms. HANSON. I have no knowledge of any such attempt.

Mr. KLINK. Thank you very much.

The CHAIRMAN. Time of the gentleman has expired.

Mr. Huffington.

Mr. HUFFINGTON. Mr. Foreman.

Mr. FOREMAN. Yes, sir.

Mr. HUFFINGTON. How are you today?

Mr. FOREMAN. Fine, thank you, sir.

Mr. HUFFINGTON. You had mentioned a 1½-hour meeting on ethics on January 22, 1993, and just out of curiosity, do you recall if Ms. Hanson and Mr. Altman were at that meeting?

Mr. FOREMAN. Mr. Altman definitely was. Ms. Hanson had not yet been selected for the position.

Mr. HUFFINGTON. Fine, thank you.

It is my understanding that before Mr. Altman met with the White House on February 2 about recusing himself from deciding the civil matters concerning Madison Guaranty, you and Ms. Hanson had a discussion about whether Roger Altman should recuse himself; is that correct?

Mr. FOREMAN. Yes, sir.

Mr. HUFFINGTON. Excuse us for going over this a couple of times. Bear with us, please.

Mr. FOREMAN. That's all right, sir.

Mr. HUFFINGTON. During those discussions you had told Ms. Hanson even though you had not done a legal analysis of the case, it was your gut reaction that Altman should recuse himself?

Mr. FOREMAN. Yes, sir.

Mr. HUFFINGTON. Ms. Hanson agreed with you on your gut reaction?

Mr. FOREMAN. Yes, sir.

Mr. HUFFINGTON. She even told Roger Altman of both of your recommendations?

Mr. FOREMAN. I guess so, sir. I was not—

Mr. HUFFINGTON. Do you recall, Ms. Hanson?

Ms. HANSON. I clearly recall giving him my recommendation. I don't recall whether I said anything about Mr. Foreman or not.

Mr. HUFFINGTON. Did Ms. Hanson also tell you that after telling Mr. Altman of your recommendation, Mr. Altman indicated he was leaning that way?

Mr. FOREMAN. At some point after the first conversation, I remember that. Yes, sir.

Mr. HUFFINGTON. It is also my understanding that you were shown a copy of the talking points prepared for Roger Altman for his February 2, 1994 meeting; is that correct?

Mr. FOREMAN. Yes, sir.

Mr. HUFFINGTON. Let me make sure I have the right copy. It has 176 at the top.

Mr. FOREMAN. Yes, sir. I believe this is what I saw.

Mr. HUFFINGTON. Very good.

When shown these talking points, you expressed no concern about Roger Altman briefing the White House about procedures concerning the statute of limitations?

Mr. FOREMAN. That's correct, sir.

Mr. HUFFINGTON. So, in summary, it is your testimony today that before Roger Altman had gone to the White House, you and Ms. Hanson had recommended that he recuse himself from decisions concerning Madison Guaranty and that Mr. Altman was inclined to do so; is that correct?

Mr. FOREMAN. I had understood that he was leaning in that direction. Yes, sir.

Mr. HUFFINGTON. Very good.

Thank you, and I will release the balance of my time to Mr. Castle.

Mr. CASTLE. Well, thank you very much, Mr. Huffington, and I will continue with you, Mr. Foreman. I want to discuss something

you know a lot more about than anybody in the room probably, and that is ethics. And I am looking at something that Congressman Leach actually had issued today.

It states a couple of ethical standards which I would like to point out. The following Department of Treasury standard, which appears patently to be violated, as he says, under Rules of Conduct, and cites a section: An employee should avoid any action which might result in or create the appearance of—result in or create the appearance of giving preferential treatment to any person.

Now, the RTC has its own ethics and as probably is proper, they sort of take from each other. It says no employee shall engage in any action which might result in or create the appearance of giving preferential treatment to any person.

And the White House also has its own ethical standards, which again are very similar. An employee shall avoid any action whether or not specifically prohibited by the subpart which might result in or create the appearance of giving preferential treatment to any person.

Now, there are other subsections, but I am honing in on that particular section which I guess you are familiar with.

I think you and I, and everybody who is watching this or here in this room understands the importance of a criminal referral. It is not a criminal indictment. It does not necessarily mean anyone has done anything of a criminal nature, but it does mean that your name has been mentioned in some instance in which there is a referral to somebody else. In this case, RTC to the Department of Justice.

Is that more or less correct?

Mr. FOREMAN. As far as I know. Yes, sir.

Mr. CASTLE. OK. And there were, as I understand it from an earlier witness—and you or your lawyers behind you can contradict me if I am wrong—but there were thousands of criminal referrals to the RTC to Justice in the course of the RTC; is that something with which you are familiar?

Mr. FOREMAN. Sir, I have no idea.

Mr. CASTLE. OK.

My question to you is, are you aware of any other individual who was alerted to the fact that there was a criminal referral in which they were mentioned, other than the alerting of the White House authorities, and by that I mean lawyers and other representatives of the White House, with respect to the fact that I believe the President and Mrs. Clinton were mentioned in a criminal referral?

Mr. FOREMAN. Sir, if I understand your question correctly, I am not aware of any other situation like that, but I don't deal in that area.

Mr. CASTLE. OK. My time is up, Mr. Chairman.

I will continue to ask you questions along this line in a couple of minutes.

I yield back.

The CHAIRMAN. Mr. Wynn.

Mr. WYNN. Thank you, Mr. Chairman.

Ms. Hanson, you said you received an unsolicited call from Mr. Roelle; is that correct?

Ms. HANSON. That's correct.

Mr. WYNN. And that you had not had any prior involvement with Mr. Roelle prior to this; is that also correct?

Ms. HANSON. No, I did. I did have prior involvement with Mr. Roelle before that. It was the first time I'd heard anything about Madison Guaranty.

Mr. WYNN. You had prior involvement with him with respect to other RTC matters?

Ms. HANSON. There was a regular Tuesday meeting at the RTC. This was during the time that Mr. Altman was the interim CEO.

Mr. WYNN. I understand. At that time—can I ask a further question? At that time there was an acting general counsel for RTC; is that correct?

Ms. HANSON. That is correct.

Mr. WYNN. Is it fair to say that Mr. Altman used you in that capacity rather than the acting RTC general counsel?

Ms. HANSON. No.

Mr. WYNN. How did you come to be involved in those meetings since you are an employee of Treasury?

Ms. HANSON. As I stated, Mr. Altman was, for a period of time, not only the Deputy Secretary of the Treasury, he was appointed under the Vacancies Act to also—

Mr. WYNN. I'm aware of that.

Ms. HANSON. To also be the interim CEO.

Mr. WYNN. I'm aware of that. My question is this: Since you were not an RTC employee, was your involvement based on Mr. Altman's role? Is that the problem there?

Ms. HANSON. Yes, my involvement was based on Mr. Altman's role, since I was not an RTC employee.

Mr. WYNN. OK, thank you.

Now, when you talked to Mr. Roelle, did he give you any instructions? Did he tell you what he wanted you to do with this information?

Ms. HANSON. None other than to talk with Mr. Altman.

Mr. WYNN. He told you to talk to Mr. Altman.

Ms. HANSON. It was understood I was going to talk with Mr. Altman.

Mr. WYNN. Did he tell you that you were to talk to Mr. Altman or did you draw that conclusion?

Ms. HANSON. I don't recall the exact words, but that was the substance, that I would talk with Mr. Altman.

Mr. WYNN. You made the decision to talk to Mr. Altman, OK.

Now, is it your position that the standard for the disclosure of nonpublic information is anticipated leaks?

Ms. HANSON. I don't want to answer a hypothetical question.

Mr. WYNN. That is not a hypothetical question.

Ms. HANSON. In this particular case, I understood that the leaks were imminent.

Mr. WYNN. That is not the question I asked. I asked the question, is the standard anticipated leaks? Was that the conclusion you drew at that time?

Ms. HANSON. The conclusion I drew at that time with the facts that were presented to me was that I understood very clearly from a very good source that—

Mr. WYNN. I understand that that is Mr. Roelle.

Ms. HANSON. That there were going to be leaks; and in fact, there were, and may have been before I spoke with Mr. Nussbaum.

Mr. WYNN. Did Mr. Altman tell to you go see Mr. Nussbaum?

Ms. HANSON. Yes.

Mr. WYNN. Mr. Altman says that he didn't, but you maintain that your actions were his responsibility?

Ms. HANSON. No, and let me make myself very clear. I have a very clear recollection that Mr. Altman tasked me to do this, but I accept responsibility.

Mr. WYNN. My next question has to do with Mr. Altman's testimony on February 24.

Ms. HANSON. Could you please start over; we were both talking at the same time, and I couldn't hear you.

Mr. WYNN. With regard to Mr. Altman's testimony on February 24, did you prepare him?

Ms. HANSON. Along with a lot of other people. We worked together—

Mr. WYNN. Did you at that time appreciate the significance of White House contacts as the basis of possible White House conflicts of interest?

Ms. HANSON. Could you repeat?

Mr. WYNN. Did you understand that the White House contacts would be alleged as a conflict of interest?

Ms. HANSON. By?

Mr. WYNN. By the Senate. By the members of the Senate committee. Did you understand that to be the case?

Ms. HANSON. I didn't understand that to be the case.

Mr. WYNN. Final question, at what point did you correct Mr. Altman regarding White House contacts following his Senate testimony? When?

Ms. HANSON. With respect to what portion?

Mr. WYNN. With respect to the number of contacts.

He made a statement regarding the number of contacts. You did not correct him on the spot, although the video shows that he actually turned to you. When did you correct him?

Ms. HANSON. I think that it is very important that we get this clear. OK? Because when Mr. Altman turned to me—

Mr. WYNN. Just answer my question.

The CHAIRMAN. You must give the opportunity for the witness to reply. The gentleman's time had expired before he asked the last question, so I can't be—

Mr. WYNN. I will raise a point of order that the witness has not answered my question.

The CHAIRMAN. You haven't given her a chance to answer. You directed the last question after your time had expired, and I did not prevent you from doing so.

At this time, I am going to ask the gentleman to realize that his time has expired.

Mr. WYNN. I yield the balance of my time in consideration of the hour.

The CHAIRMAN. You don't have any time.

Mr. WYNN. Fine, I am concluded. Thank you, Mr. Chairman.

The CHAIRMAN. That's right. But the witness isn't from replying, and the Chair will recognize the witness to reply.

Ms. HANSON. You said that I turned around during that videotape during a question on White House contacts.

Mr. WYNN. I didn't say that.

Ms. HANSON. That is not the question?

Mr. WYNN. I said, Mr. Altman turned around to you.

Ms. HANSON. That Mr. Altman turned around during a question on White House contacts. That is not the case. Mr. Altman turned around to me on a question from Senator Bond, which was not the question on White House contacts.

Mr. WYNN. The statement I made was that you didn't correct him at that time.

The CHAIRMAN. The gentleman's time has expired.

Has the gentlelady concluded her statement?

Mr. Castle.

Mr. CASTLE. Thank you.

Mr. Foreman, when we left off, we established the ethical violation is that if, as a result, it creates a preferential treatment to any person. We talked about the importance of a criminal referral of significance to anybody, even though it is not a criminal indictment to you.

I understand that there has been thousands of criminal referrals in the RTC matter to Justice. I will represent to you that that is what I have heard in testimony here. And I am asking—you indicated that you didn't know. I've got to tell you, I don't know of any other than the White House in this case. From what I heard of all this testimony, I believe that about 40 people have been involved in contacts with the White House and Treasury and RTC, dealing with this particular criminal referral, involving 40 or 50 different contacts meetings, telephone calls, diaries kept, whatever it may be dealing with this particular question.

My question to you is, why is this not an ethical violation? And I point out to you that we are dealing with the appearance of giving preferential treatment to any person. If indeed the White House was contacted—and I am not saying that the President or the press aide did anything wrong, but if the White House was contacted and they are the agents for the President, is that not a preferential treatment that nobody else in the United States of America has received?

Mr. FOREMAN. Mr. Castle, I have picked up more information about the fall meetings in the last few days. I did not know about them at the time. I was not asked for my advice at the time, just as a preface.

I have read very carefully the Office of Government Ethics opinion on those contacts. They have access to a lot more information than I still have, sir. And the way that they looked at them, under the Standards of Conduct—and I might—the Department of Treasury no longer has our own individual agency regulations on that. As of February 1993, they are government-wide Standards of Conduct.

And they looked at both the appearance question, as well as the question of public/nonpublic information; and in their analysis, not mine—I am relying on theirs, and I think it is very well done—in that situation, because they thought that there was an official and legitimate government purpose to have those meetings and that

press inquiries were coming up and looking at those facts and circumstances, they said that there is no ethical violation either directly or by an appearance to do so.

Mr. CASTLE. But, Mr. Foreman, in all fairness, if there were press inquiries about somebody in some place in this country who was not the President of the United States, would they have been given the same treatment because they had press inquiries; or is it just because he is the President of the United States, he gets preferential treatment?

Mr. FOREMAN. Sir, the Office of Government Ethics, if I may say, states in a couple of paragraphs a very interesting discussion about maybe the White House is different. Maybe the President is—

Mr. CASTLE. I don't mean to cut you off. You know my problem. But the Ethics Code doesn't say that. None of these Ethics Codes say that. They are interpreting something that is not stated in any Ethics Code whatsoever.

Mr. FOREMAN. The Ethics Code talks about legitimate government purposes. They then say that there may be a different legitimate government purpose when you are dealing with the White House for the reasons they set forth, not just to help protect the President, but because of the office.

Mr. CASTLE. But they are taking something that is very black and white, and they are adding their own legal exception to it, which is not provided for in here.

Let me ask you another question. If this was back in the summer of 1993 before all this really started and somebody came to you and said, should we talk to the White House about criminal referrals, would you have recommended that they talk to the White House about criminal referrals based on what you think now?

Mr. FOREMAN. Sir, I would have liked to go into all the facts and circumstances. I have heard a lot of discussions personally on these panels yesterday and today that I didn't know before.

One thing I would just like to mention, under oath, I have heard a lot of people comment about is just an imminent press leak enough? And you know that has concerned me. It is an apt comment.

I am here under oath. I am not exaggerating. I am going to tell you in all my years in the government I have never seen an organization like the Resolution Trust Corporation as far as leaks are concerned. And I think that is one of the circumstances that you can take into account when you are looking at what happened last fall.

Mr. CASTLE. But this is not a leak. This is an absolute effort to go ahead and positively do it, rather than a leak. I think that makes a difference.

Mr. FOREMAN. Sir, that might be so, but I think the legitimate government purpose that the Office of Government Ethics found was to prepare the White House for dealing with those. That itself wasn't a leak.

Mr. CASTLE. Interesting debate.

I yield my last 15 seconds to Spencer Bachus.

Mr. BACHUS OF ALABAMA. Thank you.

Mr. DeVore, let me ask you one quick question. When Jeff Gerth called you, did he mention criminal referrals? Did he use that word? Did he have some specifics?

Mr. DEVORE. No specifics. He did mention the word "criminal referrals"—the phrase "criminal referrals"; that is two words.

Mr. BACHUS OF ALABAMA. Thank you.

The CHAIRMAN. The time has expired.

Mr. Fingerhut.

Mr. FINGERHUT. Thank you, Mr. Chairman.

Ms. Hanson, when Mr. Cutler was here, he established that part of his responsibility as counsel to the White House, the President, is to establish procedures for dealing with ethics matters throughout the White House. And he clearly stated his belief that such appropriate steps had not been in place when all that occurred, which relates to Mr. Castle's point about how many people and contacts were involved.

Are you in a corollary position at Treasury for establishing, as general counsel, the procedures that should be taken by parties of this nature? Is that part of your responsibility as general counsel?

Ms. HANSON. I don't know that it is part of my responsibility. I could make it part of my responsibility. I know that Secretary Bentsen, in testifying in front of the Senate this morning, from the portion that I was able to see, said that that was something that he thought needed to be looked into. And so I expect, coming out of this, that we will see conversations with Mr. Cutler and the Treasury Department and the other executive branch agencies looking into these issues.

Mr. FINGERHUT. But at the time you did not understand it to be one of your responsibilities as general counsel to establish procedures for the handling of these matters.

Earlier you described this particular matter as requiring handling with sensitivity and care. You recognized that. You described Mr. Foreman as a teacher. You were learning about the ethics rules. Undoubtedly, they are different in government than in private law firms. But you didn't set out to establish processes and procedures for the handling?

Ms. HANSON. Again, I think that the Office of Government Ethics has standards. Treasury has its own ethics rules and standards. One of the things that happens when you have an occurrence like this one is, people go back and look at their procedures again to see if there is a way—to see whether they should be changed.

Mr. FINGERHUT. I asked it because earlier, in talking to Mr. Altman here today, even though he held two responsibilities as Deputy Secretary of Treasury and as Acting CEO of the RTC, he had not been involved in any meetings or discussions to set the parameters for these kinds of things, even though while I readily acknowledge Madison Guaranty wasn't the biggest issue on anyone's plate, it was floating out there as early as the campaign time, when there was a newspaper account, as you noted.

The same question directed to you, Mr. Steiner. You are Chief of Staff. Were you aware or did you establish any parameters for how personnel at Treasury should be dealing with matters of the kinds of sensitivity and care, to use Ms. Hanson's words, as this involved?

Mr. STEINER. Well, Congressman, we consulted with ethics officers on a regular basis on a whole variety of matters and that was regular practice at the Treasury Department. I do not recall any specific conversations about the parameters that you describe.

Mr. FINGERHUT. Maybe, Mr. Foreman, you might want to jump in here, as well; or Mr. DeVore, because you were also an employee at Treasury at the time. This is my last question.

There has not been, at least until this matter became controversial and called attention to the folks at Treasury, the need to, a process whereby, despite the fact that RTC is a division of Treasury, to understand the sensitivity and care with which criminal referral matters need to be handled and to limit the discussion and the furtherance of that information?

Anybody who would like to take it?

Mr. FOREMAN. Sir, just a quick comment. I don't think we have paid sufficient attention in the past to this area of nonpublic information and the Standards of Conduct. I think Mr. Castle had a series of very good questions. Mr. Leach's letters have been quite interesting. I think they are the first letters that I have received from Congress that bring up ethical issues and look at the Standards of Conduct.

We have all got to learn from this and do a better job in the future, and I think we can do that in consultation, with the committee, with OGE, and within the executive branch to try to think these things through after the experience we have been through.

Mr. FINGERHUT. My comment would be that I wish that the bells that ring in your head, Ms. Hanson, which clearly did, would have been shared widely; and we might have avoided a lot of the time and trouble we are in today.

I yield back the balance of my time, Mr. Chairman.

The CHAIRMAN. The gentleman yields back the balance of his time.

Mr. Bachus.

Mr. BACHUS OF ALABAMA. Mr. Chairman, I yield to Mr. Linder.

Mr. LINDER. I thank the gentleman.

Mr. DeVore, the IG's summary says that on October 7, Mr. Roelle informed Mr. Altman about these matters, and Altman called and told Ms. Hanson to notify Jack, the secretary, and Bernie. Did you receive a phone call from Ms. Hanson?

Mr. DEVORE. I don't understand. I don't understand your question.

Mr. LINDER. Mr. Roelle in Mr. Altman's office said that Altman told Hanson to notify Jack, the secretary, and Bernie. Mr. Altman referred to that earlier today.

Did you receive a call from Ms. Hanson?

Mr. DEVORE. No, sir.

Mr. LINDER. You received your first information from Jeff Gerth?

Mr. DEVORE. I did.

Mr. LINDER. And then you had the meeting with the four attorneys in the counsel's office in the White House?

Mr. DEVORE. I didn't count the number of attorneys, but I had the meeting in the White House counsel's office.

Mr. LINDER. Is that typically how you deal with press inquiries, with a group of attorneys? Why wasn't Dee Dee Myers there?

Mr. DEVORE. Mark Gearan was there. He is the communications director. Bruce Lindsey was there. Bruce Lindsey, I learned at that meeting, had been designated to deal with press inquiries regarding events in Arkansas.

Mr. LINDER. Did you inform them at that meeting about the four \$3,000 cashiers checks that were mentioned in the referral?

Mr. DEVORE. I may have. My recollection is hazy on the specifics.

Mr. LINDER. Did you tell them about the U.S. attorney looking into McDougal?

Mr. DEVORE. I am sorry?

Mr. LINDER. The U.S. attorney was looking into McDougal.

Mr. DEVORE. I don't recall that.

Mr. LINDER. Did you tell them that the Governor of Arkansas may be indicted, Jim Guy Tucker?

Mr. DEVORE. I recall a reference to Jim Guy Tucker by the reporter. I may have said it at the White House meeting. I don't recall.

Mr. LINDER. Did you tell them that Judge Hale was under indictment?

Mr. DEVORE. I don't recall.

Mr. LINDER. Did you tell them that Webster Hubbell was named?

Mr. DEVORE. I recall being told that. I don't recall whether I said that at the White House.

Mr. LINDER. Who were you told that by?

Mr. DEVORE. By the reporter.

Mr. LINDER. Did the reporter tell you that the RTC believed that the funds for the cashier's checks came from a loan from the Madison Guaranty to a Republican?

Mr. DEVORE. I don't recall.

Mr. LINDER. Were you informed of that?

Mr. DEVORE. No, I was not aware of that.

Mr. LINDER. It was mentioned in the memo by Bruce Lindsey coming out of that meeting. Did someone else bring that question up at the meeting?

Mr. DEVORE. Representative, I don't know. I don't recall it being brought up. I read the memo you refer to from Bruce Lindsey and it wasn't clear to me whether that came up at the meeting or whether that was something that he checked in the files after the meeting.

Mr. LINDER. All these things are also referred to in Mark Gearan's notes. Did other people at that meeting have independent information that you didn't bring to the meeting regarding these press inquiries?

Mr. DEVORE. Well, I learned at the meeting that inquiries were also being made by other reporters. Namely, Sue Schmidt of the *Washington Post* and an Associated Press reporter whose name I don't recall.

Mr. LINDER. Was it your impression that the people that were in that meeting were as well informed on these referrals as you were?

Mr. DEVORE. No, it wasn't.

Mr. LINDER. Were some of them informed from other sources?

Mr. DEVORE. I don't recall any feeling about that.

Mr. LINDER. Let me just say—have you ever seen the criminal referrals referred to in the newspaper?

Mr. DEVORE. Have I ever seen stories that refer to criminal referrals?

Mr. LINDER. No. Have you seen this story about these criminal referrals in detail in any newspaper? Has this story been written?

Mr. DEVORE. You mean the criminal referrals themselves described in a newspaper article? Can't say that I have.

Mr. LINDER. Have you ever seen any description of the referrals?

Mr. DEVORE. Of these referrals? No, sir.

Mr. LINDER. Would you be surprised if some of us listening to some of these stories, with the very carefully orchestrated testimony before us about press inquiries, would simply have believed that that might be a convenient shield or cover that has provided Treasury officials with a vehicle to give the White House nonpublic information?

Mr. DEVORE. I didn't orchestrate anything with anybody.

Mr. LINDER. Everybody here has said the same thing about press inquiries and that's the only reason for these 40 contacts.

Mr. DEVORE. I have told you, Representative, my recollections to the best of my ability. I have not even discussed these with people in Treasury. I am just telling you—with no orchestration—what happened as I recall it.

Mr. LINDER. It would be acceptable for us to believe that this is a convenient cover for passing nonpublic information to important White House officials?

Mr. DEVORE. You mean the fact that I received a call from a reporter and that at a meeting at the White House told people at the meeting what the reporter told me? I don't understand that question.

Mr. LINDER. Cumulative information we have seen here over the last several days.

The CHAIRMAN. The time of the gentleman has expired.

Mr. Grams, I believe you have not been recognized. Am I correct?

Mr. GRAMS. Thank you, Mr. Chairman. And I would like to yield my time to Mr. Bachus of Alabama.

Mr. BACHUS OF ALABAMA. Ms. Hanson, you mentioned that in fact Mr. Altman, when he turned to you in the video that he played yesterday, he wasn't asking you to affirm his recollection?

Ms. HANSON. That's not what I said.

Mr. BACHUS OF ALABAMA. Tell me what you said.

Ms. HANSON. What I said was, Congressman Wynn said that in response to a question about White House contacts, that I had—that Mr. Altman had turned to me. And I said that the question during which Mr. Altman turned to me, according to the video, was a question by Senator Bond. That was my response to the question.

Mr. BACHUS OF ALABAMA. But what did he turn to you about? It wasn't what he said he turned to you about?

Ms. HANSON. I didn't hear what he said he turned to me about.

Mr. BACHUS OF ALABAMA. You are saying that you don't know what Mr. Altman claimed yesterday that he asked you. He said that you affirmed that he didn't remember about the meeting. Isn't that correct?

Ms. HANSON. I did not hear his testimony, sir. Would you like me to go through—

Mr. BACHUS OF ALABAMA. No, you disputed what he said in the video. Is that correct?

Ms. HANSON. No, sir, all I saw from the video was that I shook my head and leaned over to Ellen.

Mr. BACHUS OF ALABAMA. You don't have any idea what he said to you or what you said to him?

Ms. HANSON. Would you like me to go through this? Because if you want me to go through this, I will go through it. But I have to go through from beginning to end.

Mr. BACHUS OF ALABAMA. No, I don't.

Mr. DeVore, you said that the reporter didn't give you any specifics?

Mr. DEVORE. On the criminal referrals; that is correct, sir.

Mr. BACHUS OF ALABAMA. Where did you get the specifics from?

Mr. DEVORE. I have no specifics.

Mr. BACHUS OF ALABAMA. You knew about Jim Guy Tucker.

Mr. DEVORE. Oh, well, I didn't realize that was part of the criminal referral. I got about Jim Guy Tucker from the reporter.

Mr. BACHUS OF ALABAMA. Did you call Mr. Katsanos at the RTC in Kansas City?

Mr. DEVORE. Mr. Katsanos in the RTC in Washington.

Mr. BACHUS OF ALABAMA. Did you call him?

Mr. DEVORE. I don't recall calling him on this.

Mr. BACHUS OF ALABAMA. So you don't recall whether you talked to him or not?

Mr. DEVORE. I do not. I dealt with him quite a bit over my month at Treasury but—

Mr. BACHUS OF ALABAMA. Did he give you any information about the criminal referrals?

Mr. DEVORE. Not to my recollection. And my recollection on that particular point is pretty sound because I just don't have that much information about the criminal referrals.

Mr. BACHUS OF ALABAMA. Who told you that it had been referred to Arkansas?

Mr. DEVORE. I can't recall for sure.

Mr. BACHUS OF ALABAMA. Was it at the White House meeting?

Mr. DEVORE. My recollection it was either right before the White House meeting or during the White House meeting.

Mr. BACHUS OF ALABAMA. Was it Ms. Hanson?

Mr. DEVORE. It might have been, but I can't say for sure.

Mr. BACHUS OF ALABAMA. You went over there with Ms. Hanson?

The CHAIRMAN. And Mr. Steiner.

Mr. BACHUS OF ALABAMA. So it would have been one of the two?

Mr. DEVORE. Or someone else at the meeting.

Mr. BACHUS OF ALABAMA. Either someone at the White House or Mr. Steiner or Ms. Hanson?

Mr. DEVORE. Right.

Mr. BACHUS OF ALABAMA. That told you that the referral had gone to Arkansas?

Mr. DEVORE. Right, but I want to stress I have given it a good deal of thought and I just can't come up with it.

Mr. BACHUS OF ALABAMA. I understand. Did you share that information with anyone other than the reporter?

Mr. DEVORE. I did not. Those at the meeting. Outside the meeting, no one other than the reporter.

Mr. BACHUS OF ALABAMA. You said that you were mistaken in what the meeting was about when you got there; is that right? You made the statement to the Senate that you were mistaken about what you were doing over there?

Mr. DEVORE. I don't recall that.

Mr. BACHUS OF ALABAMA. Did Mr. Hubbell's name come up?

Mr. DEVORE. Might have.

Mr. BACHUS OF ALABAMA. Have you talked to Secretary Bentsen either before the 14th meeting at the time of the meeting or after it about the meeting?

Mr. DEVORE. On March 3, I think it was, when there was a story in the newspaper about this pattern-of-meeting story in the *Washington Post*, the Secretary called me that day and asked me if I had told him about the October 14 meeting, and I told him I had not.

Mr. BACHUS OF ALABAMA. OK. Did you tell him about any meetings or did you discuss Madison or the referrals with him at any time?

Mr. DEVORE. I did not. Other than maybe in the 1992 campaign when the stories came out.

Mr. BACHUS OF ALABAMA. You did say in your testimony at the Senate that you were surprised by several things at the October 14 meeting. What was that about?

Mr. DEVORE. Well, I was surprised to learn that Bruce Lindsey was handling press matters, Arkansas inquiries. I was surprised to learn that Susan Schmidt was also working on a story on the criminal referrals. I was surprised to learn that a reporter for AP was working on those.

Mr. BACHUS OF ALABAMA. All right.

The CHAIRMAN. The time of the gentleman has expired.

Mr. King.

Mr. KING. Mr. Chairman, I yield to Mr. Bachus.

Mr. BACHUS OF ALABAMA. Mr. DeVore, is it proper for Joan Fender to call Steve Katsanos and order him to call Lisa Caputo?

Mr. DEVORE. I don't know enough about that incident to make any judgment on it.

Mr. BACHUS OF ALABAMA. Do you know anything about that incident?

Mr. DEVORE. Only what I read in the newspapers. I had long since left Washington by that time. I think I had. What day was that?

Mr. BACHUS OF ALABAMA. Would you have done that had you held the position at the time?

Mr. DEVORE. I don't want to make a judgment like that. I just don't know enough about the facts.

Mr. BACHUS OF ALABAMA. All right. Let me read this to the entire panel. "Contacts with agencies concerning pending adjudicative or investigative matters are potentially sensitive, and as a general proposition they should not occur."

I am going to read it again. "Contacts with agencies concerning pending investigative matters or adjudicative matters are potentially sensitive, and as a general proposition they should not occur."

Do you agree with that, Ms. Hanson?

Ms. HANSON. I don't know what you are reading from.

Mr. BACHUS OF ALABAMA. It doesn't matter. Do you agree with that statement? Let me read the statement again.

"Contacts with agencies concerning pending investigative matters, Federal Government agencies, are potentially sensitive, and as a general proposition they should not occur."

Ms. HANSON. Sir, I have said that criminal referrals and other information about investigations is sensitive and needs to be handled with care. If that is what that says, then that is my statement.

Mr. BACHUS OF ALABAMA. That is not your statement, but do you agree with it?

Ms. HANSON. I would like to know where it is from.

Mr. BACHUS OF ALABAMA. I will tell you, but I want to know—you don't agree or disagree? How about you, Mr. Foreman?

Mr. FOREMAN. Sir, if the word "general" means that there might be some exceptions in particular circumstances, then I would be willing to agree with that.

Mr. BACHUS OF ALABAMA. How about you, Mr. Steiner?

Mr. STEINER. I have learned on the subject of government ethics it is best to defer to the experts, and I would probably defer to Mr. Foreman.

Mr. BACHUS OF ALABAMA. You are not an expert.

Mr. STEINER. That I am not.

Mr. BACHUS OF ALABAMA. And are you a legal counsel?

Mr. STEINER. No, I am not.

Mr. BACHUS OF ALABAMA. What is your position?

Mr. STEINER. I am Chief of Staff, sir.

Mr. LINDER. And as Chief of Staff, you don't have any opinion on that?

Mr. STEINER. I said that I think on the matters of government ethics, I have learned, especially over the past 5 months, that it is best to defer to people with expertise.

Mr. BACHUS OF ALABAMA. You don't have an opinion on whether it is right or wrong?

Mr. STEINER. I gave you my opinion.

Mr. BACHUS OF ALABAMA. What is that opinion?

Mr. STEINER. That I defer to Mr. Foreman.

Mr. BACHUS OF ALABAMA. So you don't have any opinion of your own? None?

Mr. STEINER. I have a strong opinion, sir, and it is that I defer to Mr. Foreman.

Mr. BACHUS OF ALABAMA. That is your only opinion. You have no independent opinion as Chief of Staff?

Mr. STEINER. I have an opinion, sir.

Mr. BACHUS OF ALABAMA. Share it with this committee.

Mr. STEINER. I am giving it to you right now, sir. On ethical matters, it is best to defer to the experts and that is what I am trying to do now.

Mr. BACHUS OF ALABAMA. All right.

How about you, Mr. DeVore?

Mr. DEVORE. If that is being used as an expression of need to use caution, I would not argue with that.

Mr. BACHUS OF ALABAMA. That is Bernard Nussbaum's written statement to this committee which he says is the general proposition. And I am quite surprised that, Ms. Hanson, you had to know who said it before you could either agree or disagree with what is the general proposition.

And, Mr. Steiner, you are Chief of Staff at Treasury, and you have no opinion on whether contacts between the White House, or between agencies concerning investigative matters are potentially sensitive, and as a general proposition they should not occur? I would submit to both of you all that any senior law student would know that, and anyone working in a position of responsibility should know that.

Ms. HANSON. Sir, I think—I think that we—I think that we have all said that. Unfortunately—unfortunately, frequently one sentence is pulled out of context from another document, and when you agree to the sentence, then you find yourself in trouble because it then fits with something else. I think that each one of us has been clear that if it applies as a general proposition, it means you treat it with sensitivity and care. We are all in agreement.

Mr. BACHUS OF ALABAMA. Mr. DeVore, what did Mr. Altman call you about when you went back to Texas?

Mr. DEVORE. He didn't call me.

Mr. BACHUS OF ALABAMA. He didn't?

Mr. DEVORE. No, sir.

Mr. BACHUS OF ALABAMA. He didn't call you on February 25, the day after his Senate testimony?

Mr. DEVORE. He did not. Mr. Steiner called me.

Mrs. ROUKEMA. What did he ask you?

Mr. DEVORE. He asked me to listen to a statement that Mr. Altman was considering releasing to the press dealing with recusal, a decision he had made to recuse himself from the Madison Guaranty or the Whitewater matter.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BACHUS OF ALABAMA. What was that opinion?

Mr. DEVORE. There were a couple of problems with it.

Mr. BACHUS OF ALABAMA. Could I have an additional minute to ask him what the problem was?

The CHAIRMAN. The gentleman asks for unanimous consent to proceed for 1 additional minute. Is there any objection?

Hearing none, the gentleman is recognized for 1 additional minute.

Mr. BACHUS OF ALABAMA. Thank you.

Mr. DEVORE. There may have been more, but my recollection is that one of the problems was that I felt in the statement he should state a reason for recusal.

Another problem was, I didn't think he should release this unless a reporter asked him. I thought, you take the action to recuse yourself, but don't release it until you are asked by a reporter. That way you avoid a round of stories.

Mr. BACHUS OF ALABAMA. Anything else?

Mr. DEVORE. Nothing I can recall.

Mr. BACHUS OF ALABAMA. Thank you.

The CHAIRMAN. The Chair will once again express the thanks of the committee for the witnesses' cooperation with the committee

and their patience in this rather long afternoon. And with that, the committee stands adjourned until tomorrow morning in this hearing room at 9:30 to hear from Secretary Bentsen.

[Whereupon, at 9:30 p.m., the hearing was adjourned, to reconvene at 9:30 a.m., Thursday, August 4, 1994.]

APPENDIX

August 3, 1994

Opening Statement of The Honorable Henry B. Gonzalez**August 3, 1994**

Today we begin the third day of hearings on the so-called Whitewater affair.

These hearings cover the contacts that occurred between the White House, Treasury and the Resolution Trust Corporation. We have already heard White House witnesses. Today we hear from Treasury witnesses, and I hope tomorrow to hear from Secretary Bentsen. On Friday we will hear from RTC personnel, as previously announced.

Our witnesses today have been exhaustively examined in depositions, staff interviews and hearings in the Senate. They will provide us valuable insight into the events, and they will be able to answer any questions Members will have.

I want to remind Members that witnesses are here on their own free will. They are not accused of any crimes. We already know that the contacts we are examining did not violate any laws, nor any ethical standards. The Treasury has provided absolutely full cooperation with our efforts, and I want to commend the Department for its responsiveness.

Without further ado, I will call our first witness.

STATEMENT BY REPRESENTATIVE JAMES A. LEACH
WHITEWATER HEARINGS
AUGUST 3, 1994

As we return to this theater of the surreal, if not the absurd, with its "shut-up" standard of comity, and its "shut-down" dismissal of free inquiry into the causes of taxpayer losses associated with a failed savings & loan in Arkansas, where are we in this probe?

The limited subject matter of these hearings -- White House contacts with the Treasury and RTC -- is sandwiched between two circumstances: a) conflicts of interest in Arkansas that led to a \$67 million loss to the taxpayer; and, b) efforts by one part of the RTC to delay and object to criminal referrals developed by another part.

Here let me lay on the record the following new facts. While White House witnesses denied any improprieties in their contacts with the Treasury and RTC, and left the impression that no overt or subtle hints for action were related to appointees in the regulatory agencies, it is impressive that one day after the September 29 meeting at the White House an unprecedented legal review of the referrals was commenced. On September 30, the Professional Liability Section (PLS) of the RTC attempted to negotiate a 3 week delay before submission of the referrals to the Justice Department. One week was agreed to by the Kansas City criminal investigations unit. Subsequently a legal analysis was developed objecting to the criminal unit's conclusions primarily on statute of limitations and double jeopardy grounds. According to testimony Acting RTC General Counsel Glion Curtis gave the Treasury Inspector General, Jean Hanson appears to have been consulted on the development of the critical legal analysis on October 4. On the 8th the analysis was provided the criminal investigations unit, which held firm, refusing to capitulate to PLS objections. The referrals were then sent to the U.S. Attorney in Little Rock. So apparently, in an unprecedented procedure, were the PLS objections to the criminal unit's analysis.

It may be true that criminal referrals were not effectively delayed, mitigated or blocked, but it is not true that an effort to do so was not made. It is difficult to assess at what levels efforts were precipitated, but it is clear they were coordinated in such a way as to be reported to the top of the RTC.

Attached, for instance, is a September 30 E-mail from RTC-PLS attorney Julie F. Yanda to L. Richard Iorio, head of the Kansas City criminal investigations unit, which establishes that Glion Curtis, who apparently at this time reported "de facto" to Treasury General Counsel Jean Hanson, was in telephone contact with Kansas City about the referrals on that date.

In retrospect, the testimony of White House witnesses last week remind me of the comments the liberal journalist I.F. Stone made of Pentagon reports of body counts during the Vietnam War. Pentagon spokesmen weren't telling complete falsehoods, Stone argued, but they failed to reveal the full story. It would be, he suggested, like bumping into a man running out of a bank with a satchel full of money waving a gun, and asking: what are you doing? If the man answered that he was waiting for a car, he would be telling the truth but not presenting a fair representation of the circumstance.

The "see no wrong, hear no wrong, do no wrong" assertions of the White House staff are premised on the notion that it is not wrong to provide insider notification to one public official of the details of a criminal investigation being commenced against him, despite the fact that official could realistically expect that elements of the federal bureaucracy, especially his political appointees, and private sector friends, especially those also potentially touched by the investigation, might have reason to help him, either in stalling an investigation or frustrating a probe through evidence destruction.

We in the Minority believe there is a distinction between the Presidency and the President, and that to preserve and protect the former we must insist the latter not claim privileges associated with closed, rather than open, societies.

Today, in particular, candor and cronyism are on trial. On the one hand we have a witness who testified to one known agency contact with the White House, which now turns out to be 40. On the other, we have an independent institution, the RTC, run for a year by an individual who was a college buddy of the President, but who was confirmed by the Senate, not for an RTC job but for a Treasury post. Clearly, as evidenced in the President's reported anger at Mr. Altman's recusal almost a year after he ran the agency under the Vacancy Act, the President wanted his man to be in charge of his investigation.

As for the Altman-directed briefings of the White House on the referrals, it should be clarified that they were not reviews of press enquiries. It appears that the press had gotten wind of the existence of the 1992 referral and an inkling of the possibility that a campaign referral was in the works, but the White House, as established by Cliff Sloan's September 30 notes, was apparently briefed on key points in all the referrals, including the possibility that Governor Tucker and Senator Fulbright might be subjects, which wasn't known to the press for another six to nine months. Indeed, for all the allegations of widespread RTC leaking, it is impressive to note that the actual contents of neither the 1992 referral nor the 1993 ones have come into the public domain.

With regard to information passed on to the White House Counsel's office, it should be pointed out that no precautions were

taken to limit access to the information given the Counsel's office to non-subjects of a criminal probe, and with respect to the information immediately shared with Mr. Lindsey (not a member of the Counsel's office) -- no precautionary warnings were given to ensure that he not mention such to the President and First Lady, who at this early point in the criminal investigation process were considered witnesses and possible beneficiaries of alleged criminal acts.

Here, the importance of potential exposure of the Clintons are highlighted in the following two sentences from the previously redacted Eggleston memo -- sentences the irrelevance of which to the matter at hand Mr. Cutler would have had us accept on trust: "The RTC could also sue outsiders, including the President and Mrs. Clinton, if the RTC found that the outsiders worked with insiders illegally to divert assets of the savings and loan. For example, if the RTC believed that the Clinton campaign knowingly received diverted Madison assets at the April 19th fundraiser or that the Clintons knowingly received other diverted Madison Guaranty assets through Whitewater, it could bring suit." Given that prospect, how could the White House Counsel's office not be mobilized with concern?

Moreover, the repeated assertion that this information was being accepted in order to conduct official, press and other business is neither sensible nor consistent with the facts. It is not sensible because the White House could have avoided press inquiries easily by referring them to the RTC and the Justice Department. It is inconsistent with the facts because it is clear this information was not used for the very purpose it was supposedly needed -- that is to keep the president from meeting with people or doing things which might reflect poorly on either him or his office. In that regard, Messrs. Nussbaum, Sloan, Eggleston, and Lindsey were all aware prior to October 6, 1994, that Governor Jim Guy Tucker might be a subject of one of nine criminal referrals. Surely one of them should have advised the President about not attending that meeting. Moreover, Mr. Lindsey, besides briefing the President, followed up certain press inquiries by requesting Clinton '84 Campaign documents at a time he was aware that they might possibly be the focus of an RTC criminal investigation.

In addition, on the day Lindsey said he briefed the President on Air Force One (October 4), he also discussed the referrals issue with Mr. James Lyons of Denver, who was a consultant on Whitewater issues during the 1992 Clinton presidential campaign.

With regard to the RTC, it appears that an extensively redacted memo about the status of the RTC's reinvestigation of Madison, the subject of which was leaked to the press, represented insider information given Treasury. Given the startling relevance of the memorandum to the First Lady, which had been so heavily redacted that the Senate demanded it be provided in full, I would renew my

request that the White House allow Majority and Minority counsel to review all redacted material for relevance.

Finally, let me conclude by observing on process grounds that the Minority had hoped these hearings would be conducted very differently. A government of too little candor cannot be overseen by a legislative body with too much partisan control. The Minority chafes at the scope of the hearings, at the Majority's refusal to acknowledge and address the egregious conflicts of interest which precipitated the investigation of Whitewater in the first place, and at a process barren of comity and common sense capacity to pursue logical inquiry.

Just as no President is entitled to insider notification of criminal proceedings, no Congress is entitled to stifle the public's right to know.

-- 30 --

To: L. Richard Iorio@INVEST-1@RTCKC
 CC:
 Dec:
 From: Julie F. Yanda@LEGAL-PLS@RTCKC
 Subject: Madison
 Date: Thursday, September 30, 1993 16:51:44 CDT
 Attach:
 Certify: N
 Forwarded by: L. Richard Iorio@INVEST-1@RTCKC

 Comments by: L. Richard Iorio@INVEST-1@RTCKC
 Forwarded to: James R. Dudine@oper-inv@RTCDC
 Lee O. Aucco@INVEST-1@RTCKC
 Comments:

Jim, as discussed with you over the phone we need clarity concerning the June 93 cooperation agreement. There must be a degree of reasonableness on both sides. I look forward to our phone conference of tomorrow. Thanks.

----- [Original Message] -----

Richard, I just want to tie up some loose ends here. I just got off the phone with Clion and confirmed to him that you and I had agreed that the criminal referrals in this matter would not go out until legal had had a chance to review the proposed referrals--particularly as it relates to the issues of double jeopardy and statute of limitations. I also confirmed my commitment to prioritize our review and to try to complete our work within the next two weeks.

I want you to know that I have just met with Phil and Karen and have outlined a plan to accomplish our review within the next two weeks. Part of our plan, of course, presupposes that DC will ship the Madison documents to me at the very latest, by early next week. I will keep you and Ken updated on that front.

In the meantime Richard, I want you to know how much I appreciate your efforts to help make sure we handle these referrals professionally and consistent with WTC policy. Take care.

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UNITED STATES DEPARTMENT OF THE TREASURY

OFFICE OF INSPECTOR GENERAL

- - - - -X

In the Matter of: :

WHITE HOUSE CONTACTS :

CONCERNING THE MADISON : Case No. 94-1-031-I

GUARANTY SAVINGS & LOAN :

E. Glion Curtis, Interviewee :

(CLOSED) :

- - - - -X

Resolution Trust Corp. Bldg.

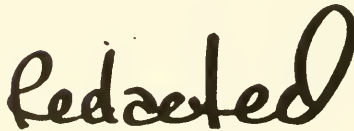
Suite 900

900 Seventeenth St. N.W.

Washington, D.C. 20220

Friday, July 8, 1994

The above-entitled matter commenced at 10:55 a.m.,
when were present:



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1 So my interaction with Jean directly was frequent,
2 at least twice a week, sometimes more often and, of course,
3 at all times could rely on John to get information to her.

4 Q Let's go back to right when you came in --

5 A Yes.

6 Q -- as acting general counsel. The Madison matter
7 was pending, and you had early instructions that Jean Hanson
8 is the person you are going to deal with. What is the first
9 you recall having any discussion with Treasury, whether it
10 is Ms. Hanaon or someone else about the Madison matter?

11 A Well, it was right in one of the early meetings
12 because I made a point of bringing with me a copy of the
13 legal opinion on the [REDACTED] criminal matters and sharing that
14 with Ms. Hanson and John Bowman.

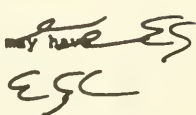
15 BY MS. DWYER:

16 Q What time period are we talking about now?

17 A This would have been probably within a couple of
18 weeks of my having come to Washington.

19 BY MS. HERLIHY:

20 Q So the copy of it, and you just brought one copy
21 or you gave copies to them?

22 A I showed them the copy I had, and they may have
23 made a copy from that, I don't recall. 

24 BY MS. DWYER:

25 Q Can we focus on the time period, can you try to

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1 narrow the time period down that you provided this
2 information to them?

3 A I don't have any notes that would tie it down.

4 Q September or October?

5 A I didn't come -- if I recall, I didn't come until
6 the very first of October.

7 Q Okay. So it had to be after October 1st.

8 A Yes, October 4 sticks in my mind. If that was a
9 Monday in '93, that would be --

10 MS. HERLIHY: I have a calendar.

11 BY MS. DWYER:

12 Q Do you have a copy of the legal opinion?

13 A I don't -- I don't know. Four, October 4 is a
14 Monday. I believe I started on that and I arrived on a
15 morning plane, and I was first introduced to Jean Hanson
16 over lunch, and it was Mr. Aboussie and myself, Jean, John
17 and Mr. McGivern, and it was subsequent to that that Jean
18 and John would have seen the memorandum. But when, I don't
19 know whether it was that week, later on that week or the
20 following week, but it was very soon after I came.

21 BY MS. HERLIHY:

22 Q Who would have been in attendance at the meeting
23 where you provided them the --

24 A I think just Jean and John and me, that was
25 typically the set up. It would be just the three of --

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1 well, later on she got an aide, and I don't recall her name,
2 but that was very -- that was later on in my tenure, almost
3 just before I left, some assistant started sitting in, a
4 young legal aide.

5 BY MS. DWYER:

6 [REDACTED]
7 [REDACTED] b3 b7C
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]

11 BY MS. HERLIHY:

12 Q Was this an issue that Ms. Hanson or someone else
13 at Treasury first asked you about, or did you initiate the
14 briefing on Madison?

15 A I don't recall, but it was clearly a matter of
16 sufficient sensitivity that I would have -- I could very
17 easily have initiated it simply because it was -- you know,
18 in all of these cases, especially PLS cases, where we go or
19 where we are involving high profile individuals, we make --
20 I mean the culture, my culture from the regional counsel
21 days is to make very sure that the people up the line are
22 aware that we are about to initiate something where there
23 are high profile individuals involved.

24 Q Do you recall any other examples of where there
25 were high profile individuals involved --

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To: Sara B. Herlihy@IG1@RTCDC, Joan M. Dwyer@IG1@RTCDC
Cc:
Bcc:
From: E. Glion Curtis@Legal@ATLDOL
Subject: Correction to My Statement of 8 July 94
Date: Tuesday, July 12, 1994 10:20:41 EDT
Attach:
Certify: N
Forwarded by:

I believe that I said, in my sworn, oral, statement which I made in your presence on July 8, 1994, that Jean Hanson, General Counsel, Treasury, did not normally attend the twice weekly senior staff meetings that RTC had with senior Treasury and TDPOB staff. On further reflection, I now believe that that is incorrect. I believe that she did attended most of the meetings that I attended, during the period October, 1993 through December 1993.

Please add this to any transcription of my statement.

STATEMENT OF CONGRESSMAN BARNEY FRANK ON THE
STATUTE OF LIMITATIONS ISSUE AND THE
MADISON GUARANTY CASE

The allegation that members of the Clinton administration in any way hindered the fullest possible investigation into all aspects of the Madison Guaranty -- Whitewater incident not only lack any factual basis, it is becoming increasingly clear that they are the opposite of what happened.

The Clinton administration at every decision point opted for the most complete and independent investigation into various aspects of this issue that it was possible to have.

One of the best examples of this is the behavior of the Clinton administration and the Democratic congressional majority regarding the critical question of the expiration of the statute of limitations regarding civil matters in the Madison/Whitewater controversy. (This controversy here is limited to civil matters, since there are constitutional obstacles to retroactively altering a criminal statute of limitations, and since the referral by the RTC to the Justice Department on the criminal aspects came before the expiration of the statute in any case.)

It is important to note that the statute of limitations for civil wrongs that might have been committed in conjunction with Madison Guarantee expired in December 1992. That is, a month before Bill Clinton took office, the statute of limitations on civil issues involving Madison had expired. Note that the Bush administration -- not to mention the Reagan administration -- had taken no action to prevent this from happening.

When Congress took up the question of completing the RTC financing in 1993, Senator Metzenbaum in the Senate and Congressman Kennedy in the House raised the question of extending retroactively the civil statute of limitations. At that point, Roger Altman on behalf of the RTC told the House that he saw no need for such action. Despite this, Senator Metzenbaum succeeded in getting adopted in the Senate a strong provision which retroactively extended the statute of limitations on a number of matters, including many where that statute had already expired. According to reports in publications from that time, Senator D'Amato objected to the breadth of this extension, but Senator Metzenbaum did not defer to Senator D'Amato and succeeded in getting an extension for both negligent and intentional wrongs.

In the House, Congressman Kennedy pushed for legislation similar to Senator Metzenbaum's. Congressman Leach supported Congressman Kennedy in most respects, but a large majority of the Republicans on the Banking Committee were opposed to any extension, and they

were joined by a few Democrats -- myself included -- in opposing any retroactive reopening.

After a series of votes, Congressman Leach succeeded in getting passed a compromise which retroactively extended the statute of limitations for all cases of wrongdoing that were grossly negligent or intentional. The House Judiciary Committee then worked on the proposal and in the House bill that went to the floor, the statute of limitations was kept open where it had not yet expired for cases of gross negligence and intentional misconduct, and was retroactively reopened for intentional misconduct and fraud.

While Mr. Altman had told the House that no such reopening was necessary, the administration did not object at any point to this provision. In fact, from the time this bill came out of the House Committee during the summer, the administration was strongly urging the House to act on it.

At that point, passage in the Senate was easier, and the Senate passed the bill on May 13. The House held off until after the Summer recess and passed the bill on the 14th of September.

Note that the bill the House passed included language extending the statute of limitations retroactively for cases where it had already expired and there was an allegation of intentional misconduct or fraud. While no mention of it was made at the time, this clearly included the Madison/Whitewater case, where the statute had expired in February 1992, and which, under this bill, would have the statute reopened for any allegation of intentional misconduct or fraud.

The House passed this bill on September 14, with 190 Democrats and 24 Republican voting yes, and 59 Democrats and 148 Republicans voting no.

Two weeks later, as we know, the President was given a heads up that he and Mrs. Clinton had been named as potential witnesses in a criminal referral. Thus, the administration was alert to the possibility of action regarding Madison by the RTC no later than late September.

This knowledge had absolutely no impact whatsoever on the administration's insistence that we pass an RTC completion act, which included a provision which would retroactively reopen the Madison Guaranty case for any charges of intentional fraud or misconduct. Roger Altman as acting CEO of the RTC led this effort, and in November, on the last day of that year's session, the House passed the conference report by 40 votes. Once again, the Democrats were overwhelming in favor and the Republicans overwhelming against, by a vote of 208 Democrats and 27 Republicans voting yes, and 46 Democrats and 144 Republicans voting no.

The President signed this bill in December.

Thus, what happened in 1993 regarding Madison Guarantee is that the administration first said that it did not need any extension of the statute of limitations in May; despite this both the House and Senate decided to extend it; the administration acceded to this decision and fought very hard to get Congress to pass a bill in 1993 which refinanced the RTC and, as part of that, retroactively extended the statute of limitations affecting among others Madison Guaranty.

After the President learned of the RTC's criminal referral regarding Madison in late September 1993, his administration continued to make passage of this bill once of its highest priorities and in November 1993, at the insistence of Roger Altman and others in the administration, the Democratic leadership in both Houses worked hard to get a bill passed which, among other things, reopened the statute of limitations regarding Madison which had already expired. The President promptly signed it.

In February, 1994, just as some of the contested meetings were taking place, on the initiative of Senator D'Amato and others, Congress added to the Supplemental Appropriations bill a further extension of the statute of limitations. This was necessary because the statute of limitations extension from the 1993 act was a five year extension, and that would have expired in February of 1994 regarding Madison.

Thus, the history of the statute of limitations regarding Madison is that it expired with no action from the Bush administration in February 1992. It was retroactively reopened by Democratic congressional majorities and President Clinton in December 1993, and kept open in February 1994 by a bipartisan effort as part of the appropriations bill. It should be noted, that the February 1994 bill may have a broader effect regarding items that are kept alive under an extended statute of limitations for those which had not expired. Thus, the fact that Congress extended the statute of limitations regarding Madison in 1993 probably means that the 1994 extension may have an even greater effect on Madison.

At no point in this period is there any indication that anyone in the administration urged that anybody slow down passage of this bill.

Once again, exactly the opposite is the case. Had the administration not pressed so hard in November 1993, the strong inclination of the House leadership would have prevailed and no action would have been taken in the conference report until March 1994. Thus, the bill which retroactively reopened the Madison Guarantee statute for a period of a couple of months would not have happened without the administration's insistence.

Had we not passed that bill in December, the discussion over whether or not Mr. Altman should have recuse himself would have been entirely academic with regard to Madison. People who have argued for the recusal have cited the decision regarding the extension of the statute of limitations as the one issue which his staying in the job might have affected. Had Mr. Altman not insisted that we pass the bill in November 1993, the statute of limitations would have been in a state of continued expiration during February 1994, and whether or not he recused himself could have had absolutely no relevance to that issue. Because this has become such an important point I think it is worth repeating: the only reason there was any question about whether or not Roger Altman should participate in a decision involving the extension of the statute of limitations in 1994 is that Roger Altman had helped us retroactively reopen that statute of limitations in 1993. Of course Mr. Altman has made it clear that at no point did he intend to influence that decision. But even the possibility would have been non-existent had it not been for his own actions a few months before.

Statement of Roger Altman

Deputy Secretary of the Treasury

**Before the Committee on Banking, Finance
and Urban Affairs of the
U.S. House of Representatives**

August 3, 1994

Mr. Chairman and Members of the Committee: My name is Roger Altman. On January 21, 1993, I was unanimously confirmed by the Senate as Deputy Secretary of the Treasury and have served in that capacity since then. That was the second time I was unanimously confirmed to serve in the Treasury. Over the four years of the Carter Administration, I served as Assistant Secretary for Domestic Finance.

I feel privileged to have served in these capacities. Public service has always been an important part of my life, as it was for my parents. Over those years, and in those positions, I may have made some poor decisions or other mistakes, but my integrity has never been questioned.

Let me address first the very basic issue as to whether any effort was made by Treasury or White House staff to impede or alter in any way the criminal or civil processes of the RTC as they relate to Madison Guaranty. I include within that question, the issue of whether any information was improperly imparted to the White House.

To the best of my knowledge, there was no effort on the part of any White House or Treasury staff to impede or affect in any way the RTC investigations. Moreover, no member of the RTC or Treasury staff, to my knowledge improperly imparted any information about Madison Guaranty to the White House. I did not do it myself, and I am not aware of anyone else doing so.

Three independent investigations have addressed these questions. First, we have the results of the legal investigation by the independent counsel, Mr. Fiske. All issues involved in his investigation were fully and thoroughly investigated. And we are all familiar with his conclusions.

There is also the report of the Office of Government Ethics which Secretary Bentsen released on Sunday. This concluded that there had been no unethical activities on the part of any Treasury personnel. The Office of Government Ethics is an independent body. As with Mr. Fiske, it had access to all documents and took testimony, under oath, from all those involved, including your witnesses.

There is also the report of Mr. Cutler, White House Counsel, on the question of any unethical behavior by White House staff. He concluded there was none.

These investigations have confirmed that the Clinton Administration did not interfere in any aspect of the Madison Guaranty case. There is no evidence, I repeat, no evidence that either the criminal or civil aspects were compromised, delayed or altered in any way. Simply none.

I believe that the conclusions of these three separate investigations are absolutely correct. And I ask the Committee to bear in mind the larger context of my involvement in the handling of the Madison matter by the RTC:

- . Most importantly, I never made any decisions with respect to the Madison case;
- . I was committed, as I told the White House staff and others, to have the RTC General Counsel, Ellen Kulka, make whatever determination was necessary with respect to any civil claims arising from Madison;
- . My meeting with the White House staff on February 2 was cleared by both Treasury General Counsel and the designated Treasury Ethics Officer;
- . I obtained two written ethics opinions stating that my recusal was not required; and
- . I recused myself from the Madison matter on February 25th without ever having made any decision in that case.

The Treasury/RTC Relationship

Let me turn to describing the interaction between the Clinton Administration and the RTC.

First, when Mr. Casey resigned as CEO in March 1993, the Administration had only taken office five or six weeks beforehand and had not yet chosen its nominee for this position. Indeed, only two U.S. Treasury officials had even been confirmed -- Secretary Bentsen and me.

Secretary Bentsen asked me to assume this position until a permanent CEO was nominated and confirmed. As others will attest, I neither sought nor wanted this assignment, but accepted it because there was no one else. And, during the discussions about my appointment, there was no mention by anyone of Madison Guaranty.

In June 1993, we submitted a nomination for permanent chairperson of the RTC. Our expectation was that he would be promptly confirmed, and I could leave the agency.

Our nominee was a Republican, and an active one. He was well qualified for this position, and the Administration supported his nomination throughout the Congressional session. But, the nomination was not taken up by the Senate. After Congress completed its work last Fall, he withdrew his name from further consideration.

Let me make an observation about this situation. The Administration nominated an active Republican for the top RTC job. That is not consistent with trying to exert undue control over the agency or one of its investigations.

When I became RTC Chairman, the agency was managed on a day to day basis by its two Senior Vice Presidents -- Bill Roelle and Lamar Kelly. Almost all members of the RTC senior staff reported to one or the other. These two men were appointees of Mr. Casey, who, in turn, had been appointed by President Bush. They were thoroughly professional and were retained throughout all of 1993. Each then left at his own initiative to rejoin the FDIC.

Retaining the two Senior Vice Presidents who we inherited is also not consistent with trying to exert political control over the agency. Moreover, these two individuals had no motivation to show favoritism on Madison Guaranty, and I do not believe that they did so.

During my tenure at the RTC, I was also serving as Deputy Secretary of the Treasury. In that role, I was deeply involved in policy initiatives ranging from passage of the President's Economic Plan to co-chairing the U.S.-Japan framework negotiations. These responsibilities permitted me limited time for RTC matters.

My RTC involvement typically related to broad public issues, like the long struggle to pass the RTC Completion Act last year. At no time did I ever ask to be briefed, or was I briefed, on any investigation or the status or outlook for any case. Not once. My role was to provide general oversight at twice-weekly RTC Senior Staff meetings. These involved 8 - 10 RTC officials. They were the only RTC employees with whom I ever had personal contact of any kind.

The Criminal Referral

Last Fall, Bill Roelle or Jean Hanson, or both, advised me, because of impending publicity, that the RTC was considering referring the Madison matter to the Justice Department for criminal investigation and that the referral could mention the President and First Lady in some capacity. I had never asked to be involved in Madison-related matters or any other RTC investigation. Indeed, until that time, I had known nothing about Madison except through the press. And, as I said, I believe they advised me because publicity was imminent.

I was also advised that such referral decisions are typically made at the regional office level. I responded by saying that this referral decision should be made in exactly the same fashion as in any other case. If that meant the regional office level, then that's where the decision would be made.

There were no further conversations with me on this subject. I ultimately learned through the press that the case indeed had been referred to the Justice Department.

I do not believe that I suggested that the White House be informed on any facts relating to this referral. But, if Ms. Hanson did advise the White House of an impending press leak on it, I see nothing improper in that.

Mr. Roelle has testified that he advised me of a possible criminal referral as early as March 1993. I respect him but I do not recall it.

There have also been questions on press articles on Madison which I may have faxed to Mr. Nussbaum. He has said that he has no recollection of receiving them. I don't recall sending them either. But there would be nothing wrong with sending press articles to anyone. And, there isn't a shred of evidence that I conveyed sensitive information then or at any other time.

The February 2 Meeting

During our meeting at the White House on February 2, we conveyed no information on the facts, merits or outlook for the case or the statute of limitations decision. That would have been impossible because I had no information on those matters. I never had such information on Madison, or any other case, and don't have any today.

The only information we provided which related to the case involved a description of the generic and procedural alternatives which face the RTC on any expiring statute of limitations situation, and indeed faced it on Madison. All of that information was in the public domain. It had previously been provided to representatives of the Congress, upon request. And, it was in the hands of the media. The Washington Times, for example, had already printed a summary of these procedural alternatives.

During the months of December and January, there were at least seven meetings or conversations between RTC officials and House and Senate staff, all requested by the latter. Three of these involved Senator D'Amato's staff. All of these centered around the statute of limitations issues and the supplying to Congress of documents related to Madison.

Moreover, from December 1993 through February 1994, a series of Congressional inquiries regarding the pursuit of civil claims arising from the Madison failure came directly to me.

They included a letter on January 11 from forty-one Republican Senators and a letter on January 25 from Senator D'Amato and a letter from Congressman Leach. These urged, in Senator D'Amato's words, "take action to voluntarily seek agreements from potential parties to pre-initiated legal action . . . I can see no reason for further delay on your part . . . please provide me with your conclusion immediately."

The Congressional inquiries directed to me, of course, required a response. Prior to receiving them, I was not familiar with the statute of limitations issues. I am not a lawyer and, for example, had never previously heard of a tolling agreement.

To assist in preparing responses to Congressional inquiries, Ellen Kulka, RTC General Counsel, briefed me on these issues. I learned that the RTC had to make a decision by February 28. The alternatives were: (1) seeking a tolling agreement with the parties against whom a claim might be brought; or (2) failing that, filing a claim in court; or (3) concluding that no basis existed for pursuing a claim. This information, together with the facts relating to the criminal referral, was the sum total of information relating to Madison which was known to me.

My responses to Members of Congress were very direct. We pledged an impartial process, a thorough review and "if such (civil) claims do exist, the RTC will vigorously pursue all appropriate remedies using standard procedures in such cases, which could include seeking agreements to toll the statute of limitations."

With the volume of Congressional and press inquiries rising, it seemed to me that, first, the White House should have the same information which was being provided to Congressional Staff and the press; and second, it was appropriate to advise the White House of events which could affect its function. Those were my only motivations.

On February 2, Jean Hanson and I went to the White House. She attended because, as Treasury's senior lawyer, she had been helping me on various RTC legal matters, and the subject matter was inherently legal. She saw nothing wrong with providing this information to the White House. I later learned that she also had the good judgment to check the ethical issues with Dennis Foreman, Treasury's chief ethics officer, who also saw nothing improper. Mr. Foreman is a career appointee who preceded the Clinton Administration.

In other words, Treasury's General Counsel and its senior ethics officer both approved this meeting.

The meeting lasted no more than twenty minutes. Initially, Ms. Hanson and I described the generic procedures which the RTC used in this or any other case facing an expiring statute of limitations. We recited the three alternatives, following talking points which she had prepared. This Committee has a copy of those.

This was the total information provided which related to the case. We provided no information on the status or outlook for the case. That would have been impossible because we possessed none.

The Office of Government Ethics, which took testimony under oath from all participants, said in its report that "nothing . . . suggests that (this) part of the meeting involved a disclosure of nonpublic information."

The Question of Recusal

Toward the end of the February 2 meeting, I also raised the question of recusal. Let me now address that. The issue of recusal is a false one. Whether I recused myself or not would have had no impact on the case. None at all.

The facts are that I began thinking about recusal around February 1, and on February 25, I did recuse myself. No matter came to me for decision on any case, including Madison.

Moreover, prior to recusing myself, I was de facto recused. Decisions on cases never came to me at any time during my RTC tenure. And, I had specifically reaffirmed to the RTC General Counsel, before the February 2 meeting, that she would be making all decisions related to Madison, not me. Indeed, I had told her that more than once and with others present.

On February 2 when I informed the White House that I was thinking about recusal, I told them that it was irrelevant because the RTC General Counsel would be making all decisions on Madison, not me. The Office of Government Ethics report confirms my de facto recusal. It states that "recusal is just another word for nonparticipation." I had already chosen non-participation.

Nine days after the February 2 meeting, Congress passed a two-year extension of the statute of limitations on Madison Guaranty. That made recusal entirely moot. My term as RTC Chairman was to expire (and did expire) on March 30. With such additional time, it was almost certain that the RTC would not be making any Madison decisions by my March 30 termination date.

In retrospect, I perhaps should have recused myself right off the bat. Some of this controversy would have been avoided.

But, before February 2, I had been advised that there was no legal or ethical requirement to recuse myself. I later received two written opinions from ethics officers to that effect. Moreover, it isn't clear whether recusing oneself in the absence of such requirements is entirely appropriate either. The Office of Government Ethics Report questions whether I made the right decision to recuse or, instead, had a duty to serve.

I don't think that taking three weeks to make such a complex decision is all that surprising. But, again, the important point is that I recused myself without ever having participated in any decisions on Madison.

Following the meeting on February 2, there were several incidental contacts, all of which involved only the issue of my recusal or the conclusion of my term at the RTC. These included a brief telephone call to Mr. McLarty a few days after the February 2 meeting to

the effect that I was still considering the issue of recusal. Around the same time, I had a brief discussion with Harold Ickes to tell him essentially the same thing. Those brief conversations on recusal could not, under any circumstances, have had a bearing on the case. I already had removed myself from any possible role on the case.

Finally, I also had a brief discussion with Mr. Ickes the night before my Senate testimony. I told him that I intended to announce during my testimony that I was stepping down as CEO of the RTC, as I did announce the next day. Around the same time, I literally ran into Mr. Nussbaum in a corridor of the White House. He told me the Administration would soon be submitting its nominee for permanent RTC head. Again, however, neither of these contacts had anything to do with the Madison investigation.

Conclusion

In closing, I would like to reiterate the key facts. Three separate investigations have concluded that no legal or ethical violations occurred. And, no one interfered in any way with the Madison Case nor improperly imparted information on it.

I hope that these points, and the answers I'll now provide to your questions, will satisfy this Committee that my conduct was proper. Thank you.

**STATEMENT OF JEAN HANSON,
TREASURY DEPARTMENT GENERAL COUNSEL,
BEFORE THE COMMITTEE ON
BANKING, FINANCE AND URBAN AFFAIRS,
UNITED STATES HOUSE OF REPRESENTATIVES,
103D CONGRESS, 2D SESSION**

(August 3, 1994)

STATEMENT OF JEAN HANSON, TREASURY DEPARTMENT GENERAL COUNSEL,
BEFORE THE COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS,
UNITED STATES HOUSE OF REPRESENTATIVES, 103D CONGRESS, 2D SESSION

(August 3, 1994)

Introduction

Mr. Chairman, Members of the Committee:

I am Jean Hanson, General Counsel of the Treasury Department. I have been privileged to hold that position since June 1993. I am testifying today about communications between Treasury officials, including me, and White House personnel relating to Madison Guaranty Savings & Loan ("Madison").

Out of respect for this Committee and for the investigations that preceded this Committee's work, I have refrained from speaking with reporters about this matter. There have been many recent leaks of my testimony and documents, which include numerous misstatements and mischaracterizations. I welcome this opportunity to testify publicly and to speak for myself. I hope you will make your judgments based on my testimony today.

I have tried my best to recollect everything that occurred about this matter. I have also reflected on the reasons for these conversations. I know that these conversations violated no law, no rule and no ethical standard. I also know that they were appropriate, and that they furthered legitimate governmental interests.

Background

Before I turn to Madison, I want to tell you a little about myself. For nearly two decades before coming to Washington, I practiced law in New York, and worked on complex corporate transactions. I came to New York from Minnesota, where I was born, and where I was reared to do things in a straightforward mid-Western way — honestly and by dint of hard work. I am neither a "Beltway Insider" nor a political person; prior to coming to Washington, I had no

contact whatsoever with the President or the First Lady; I did not campaign for them, or for any candidate, and I do not owe my Treasury appointment to political activism. I was recruited for my position. My husband is a Republican.

I did not know Secretary Bentsen before I accepted his offer to become Treasury General Counsel; indeed, I did not know anyone at Treasury or in the White House. I accepted Secretary Bentsen's offer for one reason — I wanted to contribute to the important work of the Government, and give something back to my Country. I still do.

My Role at Treasury and My Involvement in RTC Matters

At the outset, I would like to address my role in RTC matters. As Treasury General Counsel, I am charged with carrying out duties and assignments given to me by Secretary Bentsen or Deputy Secretary Altman. I fulfilled assignments relating to the RTC given to me by Mr. Altman and, at times, Secretary Bentsen, but at no time did I ever hold any position at the RTC, nor have I ever been acting RTC General Counsel.

To say the least, the RTC is an unusual entity, and people often misdescribe it and its functions. For example, it is a corporation, not an “agency,” except for limited purposes. It is *not* a regulatory body, because it does not regulate anything. And, it is *not* independent — the RTC CEO serves solely at the President's pleasure, unlike independent agencies, such as the SEC and the CFTC. It has a finite life span, now scheduled to end next year. Except for its CEO, it has no employees and must carry out its functions by utilizing FDIC and executive branch personnel, including Treasury employees.

As Interim RTC CEO, Mr. Altman had statutory authority to seek the assistance of Treasury personnel on matters related to RTC functions, and as Deputy Treasury Secretary he had the authority to grant the assistance of such personnel. Mr. Altman asked me to assist him with policy-related and other issues involving the RTC, and I did so. Mr. Altman undertook to serve in two jobs, for a limited period. He was entitled to all the assistance he could muster. It was entirely appropriate for me to assist him in any legitimate way he requested.

How I Learned about Madison, and Why

I now turn to Madison, and what I learned, how, from whom and to whom I imparted that knowledge. Given time constraints, I will not cover every meeting or conversation that I discussed in my interview with this Committee. Rather, I address the principal contacts regarding Madison in which I was involved.

To put this into context, it is important to understand that there were two distinct phases to the RTC's consideration of Madison — first, was the preparation of multiple criminal referrals relating to Madison that I ultimately learned were forwarded to the Justice Department, and second, was the consideration by the RTC of potential civil claims that might be brought against various persons who had had some involvement with Madison. From the last few days of September 1993, through the second week of October 1993, the limited discussions in which I participated related to concerns about leaks to the press of the Madison criminal referrals.

In December, the passage of the RTC Completion Act revived the previously lapsed statute of limitations for many potential civil cases, including Madison. From mid-January of this year, until the end of February, the limited discussions in which I participated related to the

statute of limitations and other procedural matters surrounding possible civil claims related to Madison.

The September 1993 Discussions. On September 27, 1993, RTC Senior Vice President William Roelle called to tell me that nine criminal referrals related to Madison were on their way from the RTC in Kansas City to Washington, after which they would be forwarded to the Justice Department; I clearly understood from Mr. Roelle that the referrals, and the information about them that Mr. Roelle imparted to me, would be leaked to the press when they arrived in Washington — which in fact did occur very close in time to Mr. Roelle's call to me. Mr. Roelle summarized the referrals, and said the President and Mrs. Clinton were mentioned as *possible witnesses*. I reported this conversation to Mr. Altman, who tasked me to advise Bernard Nussbaum, then Counsel to the President, of the imminent press leaks. On September 29, I did so, after a meeting that both Mr. Nussbaum and I had attended to discuss the Treasury's report on the handling of the Waco situation.

A few observations are in order. First, before Mr. Roelle's unsolicited call, I had no prior knowledge of Madison, other than a news story that had appeared during the campaign. Second, my task — to alert White House Counsel Nussbaum to imminent press leaks so he could deal with them intelligently — was entirely appropriate and necessary; the existence and substance of the criminal referrals *was* leaked, and the Administration *did* have to deal with the ensuing inquiries. Third, no preferential treatment or benefit was intended for anyone and, as far as I know, no one received preferential treatment. The President and First Lady were not the subject of any proposed governmental action; they were merely possible witnesses.

It has been reported that Mr. Altman does not recall tasking me to advise Mr. Nussbaum of what the RTC professional staff believed would be imminent press leaks. In my view, the difference between Mr. Altman's and my recollections on this point is not significant. If I had thought it was inappropriate to brief Mr. Nussbaum, I would not have done it. I take full responsibility for the decision to do so. What I think is significant is that Mr. Altman and I agree that it was entirely appropriate to brief Mr. Nussbaum about the expected leaks.

When the search was done to locate documents responsive to the Independent Counsel's subpoena, a September 30, 1993 memorandum I prepared was found in my secretary's chron files, as well as my own RTC files. That memorandum, addressed to Mr. Altman, had attached to it a document confirming that the referrals had been leaked to the press and reported that I had spoken to Mr. Nussbaum and Mr. Sloan, had briefed Secretary Bentsen, and inquired of Mr. Altman whether there was anything else he thought we should be doing regarding these press leaks. I do not have an independent recollection of writing this memorandum, but, I am confident I prepared it — it bears my initials and is the kind of memorandum I write to report back on matters I have been asked to handle. Although I have no recollection of having briefed Secretary Bentsen as the memorandum states, I am sure my memorandum accurately reflects that I did. The memorandum does not specify the subject of the briefing; I may have told Secretary Bentsen of the meeting or, as is more likely, I may have alerted him to the fact that there would be press leaks relating to the Madison criminal referrals, and the nature of the anticipated leaks.

The October 1993 Discussions. On October 14, I attended a meeting at the White House, arranged either by Mr. DeVore or Mr. Steiner, two senior Treasury officials, to discuss the handling of press inquiries Mr. DeVore, then Treasury's Assistant Secretary for Public Affairs, had received with regard to the Madison criminal referrals. The issue I recall Mr. DeVore saying the press had raised then was whether the referrals were being held up at the RTC and not being forwarded to the Justice Department. Implicit in the question was a suggestion of misconduct by Treasury or White House officials.

I have no doubt that the meeting was appropriate. First, the press inquiries Treasury had received confirmed that information about the criminal referrals had been leaked now to at least two reporters, a significant breach of government regulations that gave Administration officials no choice but to be prepared to respond. Indeed, I was struck, when the articles in question appeared at the end of October and the beginning of November, by how much more the reporters knew about these referrals than I ever did. Second, the inquiry was based on false information that cast the Administration in an inaccurate and decidedly prejudicial light, which the government had an obligation to correct. Again, there was no intent, and certainly I know of no effort, to interfere in any way with the referrals which, I believe I subsequently learned, had already been forwarded by the RTC to the Department of Justice.

The February 1994 Discussions. By mid-January, Congressional attention became focused on upcoming deadlines under the statute of limitations for the filing of any *civil* claims the RTC might bring in the Madison matter. At the time, civil claims involving Madison had to be filed on or before February 28, 1994, unless the RTC either decided not to pursue any civil claims,

or obtained tolling agreements from the parties who might be the subject of a civil suit. Various members of Congress were pressing the RTC to obtain tolling agreements if the RTC could not complete its Madison investigation by February 28. In the face of the fast-approaching deadline, Mr. Altman considered whether he would recuse himself from substantive decisionmaking regarding Madison-related civil claims.

On February 1, Mr. Altman and I briefed Secretary Bentsen on the operation of the statute of limitations in the Madison matter. In that meeting, Mr. Altman stated that he had decided to recuse himself from any substantive decisionmaking regarding Madison civil claims, a course I had recommended to Mr. Altman, and one in which Secretary Bentsen concurred during our meeting. Mr. Altman stated that he wanted to meet with appropriate White House officials to apprise them of his decision to recuse himself. I said that I would attend the meeting with him.

To assist Mr. Altman, I prepared talking points to guide him through both the statute of limitations and recusal issues. Prior to leaving Treasury for the White House, out of an abundance of caution, I also consulted with my Deputy General Counsel, who is also Treasury's Designated Agency Ethics Officer, to see whether he had any pragmatic or other concerns regarding the topics Mr. Altman proposed to discuss. He had none.

The meeting took place in Mr. McLarty's office, although Mr. McLarty left before the meeting began. In addition to Mr. Altman and me, the meeting was attended by Messrs. Nussbaum, Ickes and Eggleston, and Ms. Williams. Mr. Altman read the talking points, including the last point — that he had decided to recuse himself from any substantive

decisionmaking in the Madison civil matter. There was no discussion regarding the substance of the RTC's investigation of the civil claims, and I was not capable of such a discussion, since I had no knowledge of the substance of the RTC's investigation.

After Mr. Altman's statement on recusal, a discussion ensued. Mr. Nussbaum asked if the matter would be decided by Ellen Kulka, the RTC General Counsel, and Jack Ryan, the Interim Deputy CEO of the RTC, to whom Mr. Altman had referred in his discussion. Mr. Altman responded, "Yes." Mr. Nussbaum also asked why Mr. Altman was recusing himself, since no one appeared to believe that there was any legal or ethical requirement that he do so. Mr. Altman indicated that I had recommended that he recuse himself. I added that Secretary Bentsen had concurred in that judgment.

Mr. Nussbaum said that he knew Ellen Kulka, or knew of her from her prior tenure at OTS. Mr. Nussbaum said that he was not saying that Ms. Kulka was not a good lawyer, but that she was tough. Mr. Altman responded by saying he had enormous confidence in Ms. Kulka, and that he would follow any recommendation he received from her anyway, so his involvement was irrelevant. Mr. Nussbaum expressed the view that even if Mr. Altman intended to follow his staff's recommendation, Mr. Altman's presence as RTC CEO would ensure that the RTC staff pursued any claims with thoroughness and professionalism.

Mr. Ickes expressed the view that, if Mr. Altman were going to disqualify himself, it would be better if he did that sooner, rather than later. Ms. Williams asked whether, if the investigation could not be completed by the end of February, that would mean that tolling agreements would have to be signed. Mr. Altman indicated that he thought so. She also asked

if counsel for the private parties would be briefed; Mr. Altman indicated that he thought so, but was not sure. The meeting ended with Mr. Altman stating that he would think about the recusal issue overnight, and Mr. Nussbaum told him that was all they could ask. The following morning, Mr. Altman told me that he had decided not to recuse himself for the time being.

The White House meeting on February 2 was proper. First, the briefing on the operation of the statute of limitations did not impart any nonpublic information; it merely apprised the White House of how the law operated, a briefing also given to Congressional personnel.

Second, the briefing served a legitimate governmental purpose. By the February 2 meeting, Senator D'Amato and others were counting down the days, wondering whether the RTC would make a decision in connection with possible Madison civil claims before the statute of limitations expired, and what that decision would be. Mr. Altman was aware of the recusal issue, and acted appropriately in considering whether to exercise his discretion to recuse himself — a decision that ethics officers advised was entirely up to him and was “not mandated by ethics statutes or regulations.” When he reached a conclusion, it was entirely appropriate for him to tell Mr. Nussbaum and other White House officials.

Third, no discussion took place regarding the substance of any civil claims. I was not in a position to have such a discussion.

Fourth, and most importantly, Mr. Altman viewed the issue of recusal as one of process, not substance, because, as he repeatedly said to me, to Ellen Kulka, and to others, Mr. Altman intended to follow whatever recommendation he might receive from Ms. Kulka. I believed him then, and I believe him now.

In recounting the events of February 1-2, I am aware that others' recollections differ from my own. I do not question the good faith of anyone who has a differing recollection. Most importantly, I think these differences in recollection are irrelevant. What matters is that each of the events in which I was a participant pursued legitimate objectives and was appropriate. Despite differences in recollections, no one to my knowledge intended to do, or did, anything wrong or unethical.

Conclusion

As my description of the events of last fall and this past winter makes clear, each of the conversations between White House and Treasury officials at which I was present served a legitimate governmental purpose, and was not intended to, and in fact did not, further any private interests or bestow any benefit on any individual. The same cannot be said for the RTC employee, or employees, who leaked information about the criminal referrals to news reporters, breaching the OGE's Ethical Standards and RTC regulations. No action was ever taken against them.

I think it is important for all of us to maintain our focus. Much has been made in the press about purported inconsistencies between some of my recollections and those of Secretary Bentsen and Deputy Secretary Altman. I have the highest respect for both Secretary Bentsen and Deputy Secretary Altman, and it is my honor and privilege to serve with them, and report to them. The fact that we have differences in recollection should come as no surprise. Witnesses to events often have differing recollections. And, frankly, the differences here are not important — they are not important because no one, not me, not anyone at Treasury, and

no one at the White House, attempted to interfere in the substance or processes of any criminal referrals, or the substance or processes of any potential civil claims involving Madison. The criminal referrals were made; the civil claims continue to be explored; and Mr. Altman recused himself from any involvement in the Madison matter almost a half year ago, never having made, or having been asked to make, a substantive decision.

At the outset, I indicated that I only know one way to do things — with honesty, and consistent with legal and ethical requirements. I have been interviewed extensively by the Staff of this Committee, and this is the eighth day I have given sworn testimony before a governmental investigative body. I have tried to give this Committee — albeit in abbreviated form today — my best recollection of what occurred, and why. I am satisfied that I have given you my best recollection, as I have done on each prior occasion that I have testified, and the numerous additional times I have been interviewed. I have no doubt about the propriety of my actions. I have no reason to doubt the propriety of anyone else's actions.

I thank the Committee for the opportunity to make this Statement. I welcome any questions the Committee may have.

STATEMENT BY DENNIS I. FOREMAN,
DEPUTY GENERAL COUNSEL, DEPARTMENT OF THE TREASURY,
BEFORE THE HOUSE OF REPRESENTATIVES
COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS.
August 3, 1994

Good morning, Mr. Chairman, Members of the Committee.

My name is Dennis Foreman and I am the Deputy General Counsel of the Treasury Department. I have been in the public service for nearly 24 years. I am a Vietnam veteran, having served in the U.S. Army's Airborne Special Forces. I was with the U.S. Foreign Service for five years, including postings to Beirut, Tunis, and the U.S. Mission to the United Nations in New York. I have worked in four executive branch legal offices. In 1989, I was selected to be the Assistant Legal Advisor for Ethics and Personnel at the Department of State, which was my first position with ethics responsibilities. In January, 1991, I was appointed to the Treasury Deputy General Counsel position, which carries with it the responsibilities of the Designated Agency Ethics Official.

I am appearing here today at the committee's request to discuss matters pursuant to House Resolution 394. Because of my position as the senior ethics official at Treasury, I have certain responsibilities. To put those responsibilities in proper perspective, I think it is appropriate to briefly review some of the events in which I was involved.

My involvement in, and knowledge of, the events leading up to the February 2, 1994 meeting at the White House was very limited. In January, 1994, I read press stories about Madison Guaranty which stated that some type of civil claims were being reviewed by the Resolution Trust Corporation. I also specifically remember reading a letter from Senator D'Amato to Mr. Altman dated January 25, 1994 that referred to civil claims involving Madison, the statute of limitations, and "tolling agreements." Senator D'Amato's letter noted that there was a deadline for action in late February. At that time, someone — I have no recollection as to who it may have been — explained to me that these terms related to normal RTC procedural actions relating to insolvent thrifts. I was told that the civil claims were being reviewed under routine procedures within the RTC. I believe I also read this comment in Mr. Altman's February 1, 1994

response to Senator D'Amato.

I also understood that action on the substance of the civil claims might eventually be presented to the interim CEO for decision, although no proposed action was yet on his desk. This, then, brought up the question as to whether Mr. Altman should recuse himself from consideration of the matter even before it arrived. In late January or early February, Jean Hanson, the General Counsel of Treasury, asked me for my views on whether Mr. Altman should recuse himself because of his friendship with the President. I told her that I had not undertaken any legal analysis to determine whether there was a legal requirement that he recuse, but that my own first reaction was that he should recuse himself. Ms. Hanson commented that she agreed with me.

Sometime after our first discussion, Ms. Hanson told me that she had discussed the recusal with Mr. Altman, and that he was "leaning" toward recusal. In mid-afternoon of Wednesday, February 2, Ms. Hanson entered my office and said something like: "We're going over to the White House in a few minutes. Please look at these talking points." I remember scanning the points quickly and recognizing that

they noted generally the same procedural points regarding the statute of limitations and tolling agreements that I had seen mentioned previously in the press and in Senator D'Amato's letter. The talking points did not mention anything about the substance of the Madison civil claims.

I believe that I said aloud something like "This is OK. This is public information." I based my comment in general on information I had seen in the press and the congressional letters. I did not believe that this was "nonpublic information." If it had been, I would have considered the matter further in terms of the Standards of Conduct, particularly section 5 C.F.R. 2635.703, the "Use of nonpublic information."

The final talking point indicated that Mr. Altman had already decided to recuse himself. I remembered that Ms. Hanson had told me that he was "leaning" toward recusal, and I questioned whether he had made a final decision. I do not remember Ms. Hanson's response, if any.

My review of the talking points and the brief discussion with Ms. Hanson lasted no longer than 2-3 minutes and my analysis centered on

the public information issue. Based on the talking points I reviewed, I do not believe that the meeting violated any ethics regulation. The Office of Government Ethics has agreed with my conclusion.

Based on press comments, there seems to be some confusion about the issue of appearance of impropriety. For there to be an appearance that leads to a violation of the regulations, it is not enough that there is public controversy, or criticism, or even a public uproar. The standard, under the regulations, is whether a reasonable person, with knowledge of the relevant facts, would believe that the regulations have been violated. According to the talking points I reviewed, the information to be discussed at the meeting was procedural and generally public. Moreover, to the best of my knowledge, no action was taken relating to the actual handling of the substance of the Madison civil claims themselves. Hence, I do not believe that a reasonable person with knowledge of the relevant facts would believe that the ethics regulations were violated. Again, I am pleased that the Office of Government Ethics reached the same conclusion.

On February 3, Mr. Altman received a letter from Congressman

Leach, asking him to confer with "Treasury's General Counsel and ethics officers" to consider a recusal from the Madison matter. On the evening of February 2 , or on February 3, Ms. Hanson told me that Mr. Nussbaum thought that I, as the Treasury ethics lawyer, should talk to the senior ethics lawyer for his office, Beth Nolan, about the question of Mr. Altman's possible recusal. I talked to Ms. Nolan on February 4 and informed her that Treasury, RTC and OGE were going to undertake the legal analysis related to recusal. I also informed her that I was only going to discuss procedure, and that I had no knowledge about any of the substantive issues related to Madison. Ms. Nolan's notes indicate that we had a similar phone conversation on February 9. The only comment I remember Ms. Nolan making on this subject was that the conclusion could become a precedent for similar circumstances in the future.

Later, on February 4, I went to the Office of Government Ethics, and had a similar conversation with Donald Campbell, the Deputy Director, and Gary Davis, the General Counsel. I noted again that I had no knowledge of the substance of the civil claims relating to Madison, explained the procedural framework, and said that I had informed Ms.

Nolan that we were going to analyze the legal issues with OGE and RTC ethics officials. The OGE officials said they would work with Treasury and the RTC on the question.

A few days later, Mr. Altman, Ms. Hanson, Ellen Kulka, RTC's General Counsel, and Arthur Kusinski, RTC's senior ethics official, and I met with Mr. Altman to discuss the recusal issue. Mr. Altman directed us to ensure that our legal research and analysis was complete, thorough, and accurate. In the following days, I worked on, and concurred in, the legal analysis and ethics opinion that was sent to Mr. Altman on February 18, 1994, by Mr. Kusinski. The Office of Government Ethics also concurred in that opinion. In essence, that opinion said that there was no legal requirement that Mr. Altman recuse himself from Madison related matters. I sent Mr. Kusinski's memorandum with my own cover note reiterating my concurrence to Mr. Altman on February 23 to ensure that there was no doubt about Treasury, RTC and OGE consensus on this issue.

I believe that there is another source of confusion in the public discussion about these meetings. Do they present issues of "ethics" or questions of "judgment." The word "unethical" has a connotation of

something improper. The word "judgment" goes to the subjective reasoning power of human beings and possible human error, not improper behavior.

In my years as an ethics lawyer, I have always said to federal employees that if they check with us about some proposed action, and give us information about the context, and if we don't object to the activity, then criticism for the ethics call should shift to the ethics lawyer. For the February 2 meeting talking points, that ethics lawyer is me. I had an opportunity to object to the meeting, but didn't do so. I didn't object because there was nothing objectionable. It is not only unfair but inaccurate to criticize Mr. Altman or Ms. Hanson for doing something "unethical" in relation to the February meeting. That is my responsibility.

That leaves the issue of judgment. As I noted before, I suggest that this be analyzed as a question of human reasoning power, rather than one of improper behavior.

Finally, one more comment. In my experience, ethics issues arise all the time in federal agencies, both as considerations in decision-making and in connection with financial disclosure and other

requirements applicable to officials appointed by the President.

Secretary Bentsen introduced me to his new staff on the morning of January 21, 1993 and turned that first staff meeting over to me for a ninety minute seminar on government ethics. The Secretary made it clear that ethical considerations were a matter of great importance for him. Based on my frequent interaction with the senior officials at Treasury for the last 18 months, I believe that those officials have worked hard to conform to the many complex ethics rules applicable to senior federal officials. I have the highest regard for their ability, integrity and professionalism.

Thank you, Mr. Chairman. I will be pleased to respond to any questions by members of the committee.

STATEMENT OF JOSHUA L. STEINER
CHIEF OF STAFF
U.S. DEPARTMENT OF THE TREASURY

BEFORE THE COMMITTEE ON BANKING,
FINANCE AND URBAN AFFAIRS
U.S. HOUSE OF REPRESENTATIVES

AUGUST 3, 1994

August 3, 1994

Mr. Chairman, Congressman Leach, Members of this Committee:

My name is Joshua Steiner and I serve as the Chief of Staff at the Department of the Treasury. Before joining the Treasury Department, I was Executive Assistant to Timothy Healy, the President of the New York Public Library.

I am here today to answer your questions and help clarify any outstanding issues concerning contacts between the Treasury Department and the White House on the Resolution Trust Corporation's investigation of Madison Guaranty. I have cooperated fully with all investigations into this matter, including those conducted by Mr. Fiske, the Office of Government Ethics and Congressional committees.

Several members of this Committee have commented on my personal diary and, if I might, I would like to make one brief point about it.

I started keeping this diary nearly six years ago. I would write in it fairly infrequently -- sometimes every two weeks, other times six weeks would go by before I made an entry. Indeed, some of the entries of interest to this Committee describe events that occurred nearly a month before I wrote about them.

I made no effort to check the accuracy of my diary because this was never intended to be a precise narrative or a verbatim account of what took place. At times, it included impressions of meetings that I did not even attend. It was, more than anything, a way to reflect on events and draw lessons from my personal and professional experiences.

Today, you will ask me questions under oath and I hope my answers will clarify the entries I made in my diary. Since the time I first made these entries, I have had a chance to reflect about precisely what I know.

I wish that my diary was more accurate, but I take my responsibility to this Committee very seriously and I feel obligated to present the facts as truthfully as I possibly can.

Thank you.



RESOLUTION TRUST CORPORATION

Resolving The Crisis
Restoring The Confidence

May 4, 1993

Honorable Henry B. Gonzalez
Chairman
Committee on Banking, Finance
and Urban Affairs
House of Representatives
Washington, D.C. 20515

RECEIVED

MAY 4 1993

Committee on Banking, Finance
& Urban Affairs

Dear Mr. Chairman:

Thank you for this opportunity to comment on the issue of extending the limitations period applicable to tort claims brought by the Resolution Trust Corporation in its capacity as conservator or receiver of a failed insured depository institution.

As you know, over a year ago the RTC generally supported legislative efforts to extend this limitations period because its Professional Liability Section (PLS) was facing a peak number of institutions which were closed in 1989 and for which the federal limitations period would be expiring during 1992 and the first quarter of 1993. The limitations period expired during this time for 410 of the 752 thrifts under RTC control for PLS purposes.

The RTC, however, survived this critical period of time without missing a deadline. In fact, as of March 31, 1993, the RTC had 220 pending offensive lawsuits involving RTC claims filed in 174 institutions. As of the same date, 120 settlement agreements have been executed, and 11 cases went to final judgment through trial.

In addition, beginning last autumn, the RTC has been increasing PLS staff to meet the demands of its workload. The Secretary of the Treasury, in his capacity as Chairman of the Thrift Depositor Protection Oversight Board, has further committed to review and recommend improvements in the organization and staffing of PLS as part of his nine-point plan for the RTC, recently announced during his semi-annual testimony before Congress. Consequently, the RTC has no need at this time either to revisit "closed"

Honorable Henry B. Gonzalez
Page 2

claims arising in institutions in which the limitations period has expired or to extend the limitations period prospectively as the RTC will continue to meet all upcoming deadlines.

Please let me know if you need any further information.

Sincerely,

A handwritten signature in dark ink, appearing to read "Roger C. Altman".

Roger C. Altman
Interim CEO

M E M O R A N D U M

TO: The First Lady C O N F I D E N T I A L
FROM: Harold Ickes
DATE: 1 March 1994
RE: Resolution Trust Corporation

Attached is a copy of W. Neil Eggleston's 28 February 1994 memorandum to me regarding certain issues involving the RTC and the Rose Law Firm ("Rose"). Attached to that memo are copies of the FDIC report, dated 17 February 1994, concerning possible conflicts of interest regarding Rose's representation of the FDIC against Madison Guaranty, and the RTC's 8 February 1994 report concerning the same subject.

It is my understanding that shortly after Roger Altman met with Bernie Nussbaum, me and others concerning the RTC statute of limitations, he received an opinion from an ethics officer of the Treasury Department that he, as the acting head of RTC, did not have to recuse himself from matters involving Rose/Madison Guaranty. I will confirm this situation.

Please let me know if you want to discuss the attached.

THE WHITE HOUSE
WASHINGTON

(revised)

February 28, 1994

MEMORANDUM FOR HAROLD ICKES
DEPUTY CHIEF OF STAFF

FROM: W. NEIL EGGLESTON
ASSOCIATE COUNSEL TO THE PRESIDENT

RE: WHITEWATER--FDIC AND RTC ROSE LAW FIRM ISSUES

The recent release of the FDIC and RTC reports addressing the possible conflict of interest of the Rose law firm in its representation of Madison Guaranty raises a number of issues.

What did the FDIC and RTC conclude, and why does it seem that their conclusions are inconsistent?

1. The FDIC Report.

The FDIC report was released on or about February 17, 1994. It was drafted by the Legal Division of the FDIC, and presented to FDIC Acting Chairman Hove, a Republican.

Frost & Co. was Madison Guaranty's accounting firm in 1984 and 1985. In that capacity, it prepared certain audited financial reports for Madison. The Rose firm used the 1985 audited financial statement in connection with its representation of Madison Guaranty before the Arkansas Securities Commission.

Madison Guaranty sued Frost & Co. in 1988 for the negligent preparation of financial statements. At the time, Madison was represented by the Gerrish firm. McDougal had been forced out of the management of Madison in the summer of 1986. When the FDIC took over Madison Guaranty in February 1989, it determined that the Gerrish firm had a conflict. In March 1989, the FDIC therefore replaced the Gerrish firm with the Rose law firm.

The FDIC report reviewed the time period in which the FDIC was responsible for the conservatorship of Madison Guaranty, from February 28, 1989 to August 9, 1989 (when the RTC was created and took over the conservatorship of failed savings and loans). The FDIC was thus the entity that retained the Rose law

firm to pursue the Frost & Co. litigation. The FDIC report reviewed relevant FDIC and RTC documents and interviewed participants, including FDIC and RTC employees and Rose law firm lawyers.

On the factual issue of whether the Rose law firm had disclosed to the FDIC its prior representation of Madison Guaranty, the FDIC concluded that the record was unclear. The report nevertheless concluded that no conflict existed between the Rose law firm's prior representation of Madison Guaranty and its representation of the FDIC in the Frost & Co. litigation. The report concluded that the firm's representation in 1985 was not "directly adverse" to the representation in 1989.

The FDIC based its conclusion on two grounds. First, it stated that there was no evidence that the firm had any involvement in the creation of the Frost & Co. audit report that became the subject of the 1989 litigation. Second, it stated "we have found no evidence that the Firm had a close relationship with the S&L which might call into question its independence." This was one of the sentences that Senator D'Amato attacked so bitterly at the Senate Banking Committee hearing.

On the issue of whether Mr. Hubbell had disclosed his relationship with his father-in-law, Seth Ward, who was then in litigation with Madison Guaranty, the FDIC stated that it was uncertain whether Mr. Hubbell had disclosed the relationship before the FDIC retained the Rose law firm. Nevertheless, the relationship was plainly known to the FDIC within three months of retention. Mr. Hubbell agreed to the creation of an internal firm "firewall" to guard against him receiving information that might be of use to his father-in-law. At the hearing, Senator Faircloth ridiculed what he called an "Arkansas firewall" through which he claimed light and heat could easily penetrate.

At the hearing, Chairman Hove testified that in 1989, FDIC standards required an actual conflict before the agency would bar a retention. Today, the FDIC's standards are much tougher and would bar a retention on the showing of an "appearance of a conflict of interest." Chairman Hove testified that under today's standards, the Rose law firm facts would present an appearance of a conflict.

Chairman Hove agreed to have the FDIC Inspector General ("IG") look into the conflict issue. It was somewhat unclear at the hearing whether the IG would look only at the process by which the FDIC arrived at its decision or would review the substantive issue. It was also unclear whether the IG would apply the actual conflict standard or the appearance of a conflict standard in its review. We should assume, however, that

the IG will adopt the broadest possible interpretation of its mandate.

2. The RTC Report.

The RTC report was released on February 23, 1994 by Senator D'Amato.

The RTC report differs in two major respects from the FDIC report. First, the RTC did not interview any Rose law firm attorneys. The RTC reviewed RTC records and interviewed RTC employees only. Second, the report is factual only. The report reached no conclusion on whether the Rose law firm had a conflict. As the report describes its scope, "This investigation focused only on whether or not Rose disclosed its previous representation of Madison to the FDIC and RTC."

The RTC concluded that Rose did not disclose either its prior representation of Madison Guaranty or Mr. Hubbell's relationship with Mr. Ward.¹ The report acknowledges, however, that within a few months of the retention, the supervisory FDIC attorney, Ms. Breslaw, was made aware of Mr. Hubbell's relationship with Mr. Ward. Ms. Breslaw determined that no conflict existed.

The RTC did not hire the Rose law firm; rather, the retention by the FDIC took place before the RTC was even in existence. Further, the RTC acknowledges in its report that it had no outside conflicts committee, nor regulations, guidance or policy on conflicts until after 1989.

The conclusion of the RTC report is that the matter was referred to the Office of the General Counsel (Ellen Kulka) for any action that it deems appropriate.²

¹ An ultimate finding that Rose had not disclosed either the prior representation of Madison Guaranty or the Ward relationship would be a finding that Mr. Hubbell was not truthful in his recollection. Mr. Hubbell told the FDIC when it was preparing its report that he advised FDIC attorneys about the prior Rose representation of Madison Guaranty and believes that he also advised the government attorneys about his relationship with Mr. Ward. Mr. Hubbell was not interviewed by the RTC attorneys during the preparation of their report.

² As noted above, the RTC report only addressed the factual issues of representation and disclosure. The report did not attempt to apply the facts to any applicable conflicts rules or regulations. It is not clear what the RTC General Counsel, Ms. Kulka, will do with the report. The RTC has an Outside Counsels' (continued...)

At the hearing, Mr. Altman agreed to refer the RTC report to the RTC IG for review.

What sanction could be imposed if the FDIC/RTC finds that the Rose law firm had a conflict of interest or an appearance of a conflict in handling the Frost & Co. litigation in 1989 and failed to disclose that conflict?

As noted above, it is not clear whether the FDIC or the RTC will review this matter under an actual conflict standard or an appearance of a conflict standard. It would seem that to impose any sanction, the IG would have to decide that the Rose firm violated a duty that was in existence at the time, not a duty that later became more strict.

The most severe sanction that would likely flow from a finding that the Rose law firm had a duty to disclose its prior representation of Madison Guaranty and its relationship with Mr. Ward and that it breached that duty would be that the Rose law firm would be permanently barred from any further work for the RTC or the FDIC (and possibly other banking regulators). Lesser sanctions imposed by the regulatory agencies might also be possible, such as a temporary bar.

Under the facts as we now understand them, it would seem quite unlikely that the RTC could bring a civil action against the Rose firm or any of its attorneys for failure to disclose the conflict. To prevail, the RTC would have to show fraud or intentional misconduct that caused substantial loss to the institution or unjust enrichment to the Rose firm. The RTC could only really show fraud or intentional misconduct if it could demonstrate that the Rose law firm "threw" the Frost & Co. litigation because of its prior representation of Madison Guaranty.

Criminal liability for the Rose firm would seem even more remote. To prevail, the Special Counsel would have to show that Rose acted with intent to defraud the savings and loan or wilfully made false statements to the FDIC/RTC through its failure to disclose the conflict.

What civil matters is the RTC investigating, who can it sue, and why didn't we hear anything about a civil investigation until late 1993?

²(...continued)

Conflicts Committee to which she could refer the report. She could presumably also refer the report with a recommendation to the RTC Acting CEO Jack Ryan for action.

The RTC is investigating whether it has a civil tort action against anyone who caused a loss to Madison Guaranty. This would include insiders such as James and Susan McDougal and members of the Board of Madison. It also includes professionals who provided service to Madison Guaranty, such as the Rose law firm, other law firms, and accounting firms. The Frost & Co. suit is an example of a suit against a professional service provider that caused loss to Madison Guaranty through a negligent audit. The RTC could also sue outsiders, including the President and Mrs. Clinton, if the RTC found that the outsiders worked with insiders illegally to divert assets of the savings and loan. For example, if the RTC believed that the Clinton campaign knowingly received diverted Madison assets at the April 1985 fundraiser or that the Clintons knowingly received other diverted Madison Guaranty assets through Whitewater, it could bring suit. The RTC commonly sues the recipient of a loan where it has information that the borrower knew that the loan was improper.

Under the legislation creating the RTC in 1989, the RTC as conservator of a failed savings and loan had to bring a tort claim within three years of the time the RTC (or FDIC as predecessor) took over the institution. The FDIC took over Madison Guaranty on February 28, 1989. Thus, all torts had to be brought by February 28, 1992. That day passed during the campaign.

The Resolution Trust Corporation Completion Act, signed by the President on December 17, 1993, revived the possibility of a civil action. Under that legislation, a narrow class of torts--those that were fraudulent or involved intentional misconduct and that either caused substantial loss to the institution or unjust enrichment to the defendant--were revived. The statute extended the limitations period such that this category of tort could be brought within five years of the time the RTC took over the institution.⁴ Moreover, the statute specifically provided that the five year period would apply even if the three year limitations period had already run.⁵

³ I am unaware of any civil suits brought by the RTC prior to February 28, 1992, but I would not be surprised if it had sued McDougal and other insiders. McDougal was indicted in 1989 for bank fraud involving Madison Guaranty, and was acquitted in 1990. It would be fairly common for the RTC to pursue a civil action even after an acquittal.

⁴ Torts based on negligence are still covered by the three year statute of limitations.

⁵ The statute of limitations for crimes involving financial institutions is 10 years from the date the illegal conduct occurred, regardless of when the RTC took over the institution.

As a result, the RTC would not have been looking into a possible civil suit involving Madison Guaranty after February 1992 and before the passage of the statute last fall. In late 1993 and early 1994, Senator D'Amato and Rep. Leach recognized that the legislation had revived the possibility of an RTC lawsuit in the Madison matter. Both took to the floor of their respective chambers, aggressively urging the RTC to commence an action before the statute expired. In early 1994, the RTC--then faced with a statute of limitations that would run by the end of February--hired the San Francisco-based law firm of Pillsbury, Madison and Sutro to assist it in determining whether to bring any civil actions arising out of Madison.⁶

In February 1994, the statute of limitations was extended once again, through the life of the RTC, which is expected to expire on December 31, 1995.

Now that Mr. Altman as Acting CEO of the RTC has recused himself from further involvement in Madison Guaranty matters, who at the RTC will be the decision-maker on whether to bring a civil action arising out of the failure of Madison Guaranty?

Following his testimony before the Senate Banking Committee on Thursday, Mr. Altman recused himself as Acting CEO of the RTC from any further involvement in Madison Guaranty/Whitewater matters.

⁶ The partner at Pillsbury assigned to this matter is Jay Stephens, a Republican who was a member of the Reagan and Bush administrations. From 1981 to April 1986, Mr. Stephens was a political appointee at the Justice Department. By 1986, he had become Associate Deputy Attorney General. From April 1986 through March 1988, he was Deputy Counsel to the President. In that capacity, he had a role in the Iran/Contra Affair. After published reports that Oliver North had shredded documents, Mr. Stephens called Fawn Hall. When she denied (falsely) that any improper shredding had taken place, Mr. Stephens accepted her denial, and the White House issued a statement denying the shredding.

In March 1988, President Reagan appointed Mr. Stephens to be U.S. Attorney for the District of Columbia. When President Clinton sought the removal of all U.S. Attorneys in April 1993, Mr. Stephens called a press conference at which he suggested that the President was acting to frustrate the investigation of Rep. Rostenkowski. At the time, Senator Dole called for hearings into what he termed the "March massacre." Until January 1994, Mr. Stephens had been considering running for the Senate.

The top official at the RTC who will be making these decisions on Madison Guaranty is Jack Ryan. Mr. Ryan was formerly with the Office of Thrift Supervision. He is a career official. His principal advisor will be Ellen Kulka, now General Counsel of the RTC, who also came from OTS. Ms. Kulka is also a career official.

We intend to nominate a person for the position of CEO of the RTC within the next few weeks. We can anticipate that any person the President nominates will be pressured to recuse from any Madison-related matters. If the person refuses to recuse and is confirmed, then that person will become the decision maker. If that person is forced to recuse to achieve confirmation, then Jack Ryan would remain the decision-maker on Madison matters at the RTC.

W.N.E.

FDICFederal Deposit Insurance Corporation
Washington DC 20429

General Counsel

February 17, 1994

MEMORANDUM TO: Chairman Hove

FROM: Douglas H. Jones *Douglas H. Jones*
Acting General Counsel

SUBJECT: Report on the Retention of the Rose Law Firm

As you requested, we have reviewed the FDIC's 1989 retention of the Rose Law Firm with respect to Madison Guaranty Savings and Loan. Attached is a report on our review and findings. As you can see from the report, we found no basis to conclude that the retention involved a conflict of interest by the law firm. Accordingly, we are not recommending any sanctions against the firm.

Attachment

February 17, 1994

**LEGAL DIVISION REPORT ON THE RETENTION OF THE ROSE LAW FIRM
FOR THE MADISON GUARANTY SAVINGS AND LOAN CONSERVATORSHIP**

The purpose of this report is to review the facts and circumstances surrounding the retention of the Rose Law Firm (the "Firm") for the representation of the conservatorship of Madison Guaranty Savings & Loan (the "Conservatorship" and the "S&L" respectively) in litigation against the Frost & Co. ("Frost") accounting firm. It explores (1) whether the Firm's prior representation of the S&L before the Arkansas Securities Commissioner constituted a conflict of interest; (2) whether the litigation against the Conservatorship by the father-in-law of the Firm partner in charge of the Frost litigation was a conflict of interest; and (3) whether any action against the Firm is warranted.

Assertions have been made that the Firm had conflicts of interest that should have prohibited it from representing the Conservatorship and the FDIC in the Frost litigation. We have reviewed the time period in which the FDIC was responsible for managing the Conservatorship (from February 28, 1989 through August 9, 1989, when the Resolution Trust Corporation was established) to determine the facts related to the Firm's retention. As a part of our review, we looked at all relevant internal FDIC and RTC materials from that time, reviewed relevant materials identified by the Firm, and interviewed each of the participants and others who were involved with the Conservatorship.

As detailed below, based on the information available to us, we have found no basis to conclude that under the then applicable rules either situation involved a conflict of interest. Accordingly, we recommend no sanctions against the Firm.

Background

On February 7, 1989, the FDIC entered into an agreement with the Federal Savings and Loan Insurance Corporation ("FSLIC") to act as agent for the FSLIC in any receivership or conservatorship appointed for an insured savings association after January 1, 1989. On February 28, 1989, FSLIC was appointed conservator for the Madison Guaranty Savings & Loan. Pursuant to the agreement with the FSLIC, the FDIC was appointed the managing agent for the Conservatorship. In that role, the FDIC was required to marshal the institution's assets and pursue all claims by and defend those against the S&L. Among the litigation existing at the S&L at that time was a suit against the institution's former auditor, Frost & Co. As managing agent, it was the FDIC's responsibility

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to determine whether that suit had any value and, if so, to continue the pursuit of the action. The FDIC's formal role ended on August 9, 1989, with the creation of the RTC, whose function was to serve as receiver or conservator for any S&L closed after January 1, 1989.¹

The Firm's Prior Representation

In 1985, the Firm represented the S&L before the Arkansas Securities Commissioner on two matters: a plan to issue a \$3 million private placement of preferred stock in the S&L, on which the Commissioner was asked to issue an opinion; and an application by which the S&L, assuming it raised the capital, sought to set up a service corporation that would become a wholly-owned broker dealer of securities. The opinion was issued on May 14, 1985 and the Commissioner approved the service corporation on September 20, 1985, although placing a condition on the approval that the S&L must raise the capital by December 31, 1985. The capital was never raised and the plan was not implemented. There were no communications between the Commissioner's staff and the Firm after 1985 with respect to the securities placement or the plan.

Part of the submission in support of these two applications was an audit of the financial statements of the S&L performed by Frost for calendar year 1984. Certain adjustments to these financial statements were questioned by the Commissioner's office. The records of the Commissioner's office show that the affect of those adjustments was explained in letters from Frost and John Latham, the S&L's chief executive officer, attached to a letter from the Firm on July 23, 1985. There is no indication that the Firm retained the auditor, assisted in any way in the audit or took any position as to the quality of the audit.

In 1988, the S&L initiated litigation against Frost charging that the auditor had been negligent, reckless and breached its contract by failing to fairly represent the S&L's financial condition in the 1984 and 1985 audits. The S&L was represented in the litigation by the law firm of Gerrish and McCreary.

The Gerrish firm also was involved in defending directors and officers of failed banks in actions instituted by the FDIC. After FDIC was appointed managing agent of the Conservatorship, the FDIC staff attorney responsible for the Frost litigation concluded that, pursuant to FDIC policy, the firm had a conflict

¹The FDIC's Legal Division continued to provide legal support to the RTC with staff dedicated to RTC legal matters until September 1991, when all RTC legal matters were assumed by a newly created Legal Division within the RTC comprised of the FDIC staff formerly dedicated to RTC work.

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of interest with the FDIC and had to be replaced. The staff attorney also concluded that few firms in Arkansas had the experience and capacity to do accounting malpractice work, which is considered to be complex in nature. The staff attorney first considered the Arkansas law firm of Wright, Lindsey & Jennings, which had represented FDIC in other matters, but it too had a conflict of interest. The staff attorney then contacted the Rose firm based on previous work done by the firm on behalf of the FDIC in connection with the Cornin Bank failure.¹

The staff attorney contacted a partner of the firm (based on the staff attorney's recollection, probably Webster Hubbell) and asked the firm to take over representation. The staff attorney is sure the firm would have been asked about any conflicts of interest, but due to the passage of time has no specific recollection of making that request or any response that may have been made. Richard Donovan, a partner with the firm who worked on the case, states that he recalls Mr. Hubbell having advised the staff attorney of prior representation of the S&L on a matter involving the Arkansas Securities Commissioner. Mr. Hubbell's recollection differs. He recalls advising the staff attorney very generally that the firm had done a small amount of work for the S&L years earlier, but that he did not view that as amounting to a conflict. He believes the work he was aware of was lending and collection work. He says he does not believe he was aware of the earlier securities work at that time, so he does not believe he discussed it with the staff attorney then. The FDIC staff attorney has no recollection of the issue being raised and says that if it had been it would have been discussed with the attorney's supervisor. The supervisor has no recollection of the issue being raised.

¹ While the firm had sent a letter to the FDIC dated February 28, 1989, soliciting work relating to any S&L failures, it does not appear the staff attorney was aware of that letter or that it influenced her decision to ask the firm to represent the FDIC. Also, assertions have been made that the letter may have been deceptive and misled the FDIC regarding prior representation because it stated "the firm does not represent any savings and loan association in state or federal regulatory matters." However, the letter also states "[f]rom time to time we have provided specialized service to some savings and loan associations in such areas as employment discrimination, work-out of participation loans and bankruptcy." The firm also acknowledged in the letter that there may be individual transactions or situations where a conflict of interest could arise.

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The Existence of a Suit Involving Mr. Hubbell's Family

At the time the conservator was appointed (and when the firm was retained), Mr. Hubbell's father-in-law, Seth Ward, Sr., was involved in litigation with the S&L. Mr. Hubbell's father-in-law had obtained a judgment of roughly \$470,000 for commissions allegedly owed him by the S&L for the sale of real estate on behalf of Madison Financial Corporation, a subsidiary of the S&L. That case was then on appeal.

Mr. Hubbell says he was aware of the Ward litigation but he did not view it as a conflict. He says he believes he did advise the staff attorney about it, but he cannot be certain. The staff attorney does not recall whether the Ward relationship was raised at the time of the firm's retention in March of 1989. However, another FDIC staff attorney became aware of the relationship and informed the staff attorney on the case, in a letter dated June 8, 1989. At that time, the second staff attorney expressed concern that Mr. Hubbell would have access to information through his representation that could be damaging to the litigation involving Mr. Ward. After reviewing the facts, the staff attorney responsible for the ~~Trust~~ litigation concluded that the facts did not pose a conflict. On June 23, 1989, the staff attorney wrote to the FDIC's Managing Agent for the Conservatorship concerning the Hubbell/Ward relationship, stating that Mr. Hubbell had not represented Mr. Ward in the past and he would not do so in the future.³ Mr. Hubbell then sent a letter to the FDIC Managing Agent, dated June 28, 1989, in which he affirmed that he had not and would not in the future represent Mr. Ward in the dispute with the S&L.⁴ Mr. Hubbell also confirmed in an interview that he had not drafted any documents that were involved in the Ward litigation.

³ The staff attorney's letter also noted that the primary attorney in the case was Richard Donovan, not Mr. Hubbell, and stated that Mr. Hubbell was involved only in an indirect way. Based on discussions with the staff attorney, this was meant to indicate that Mr. Donovan, as the junior partner on the case, would do most of the day-to-day work. Based on fee bills for the case, Mr. Hubbell performed a significant amount of work.

⁴ The issue was raised again after Mr. Hubbell's letter when an FDIC credit specialist sent a memorandum to his supervisor expressing concern about the relationship and seeking senior level review of the situation. This memorandum also was called to the attention of the FDIC's Regional Counsel indicating that this should be "a Washington issue" because the staff attorney responsible for the ~~Trust~~ litigation was based in Washington, D.C. No further action appears to have resulted from these subsequent memoranda.

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As an added precaution, according to Mr. Hubbell, Mr. Donovan and Gary Speed, another partner at the firm who worked on the Frost case, the firm imposed an informal, unwritten procedure in connection with the Frost litigation that kept Mr. Hubbell from having access to information about his father-in-law. According to Messrs. Donovan and Hubbell, Mr. Hubbell was not allowed access to material such as an investigative report done by the SEC's prior attorneys, and he was kept out of several depositions when information concerning Mr. Ward's loans was expected to be involved. Mr. Speed states that Mr. Hubbell would leave the room if Mr. Ward's name came up during discussions, and that he and Mr. Donovan would not discuss Mr. Ward in the presence of Mr. Hubbell.

Analysis

Criteria for Determining Whether a Conflict Exists

The standards governing the professional conduct of attorneys, including issues relating to actual and potential conflicts of interest, are set forth in codes or rules of professional responsibility and conduct adopted by the various states. Many states have adopted, or have patterned their rules on, the American Bar Association's Model Rules of Professional Conduct ("the Model Rules"). Arkansas adopted the Model Rules as its rules of conduct for attorneys in 1985. The Model Rules generally prohibit an attorney from representing a client where the attorney also represents or previously represented another client whose interests are adverse to the first client. The Model Rules provide that a client may waive a conflict of interest by consenting to the representation after consultation with the attorney and provided the attorney reasonably believes the representation will not adversely affect the relationship with the other client. MODEL RULES OF PROFESSIONAL CONDUCT Rule 1.7. Under the Model Rules, and all the state rules of which we are aware, it is the attorney, not the client, who has the primary responsibility to identify conflicts of interest when approached with a request to represent a client with respect to a new matter.

¹ Notwithstanding that the responsibility to identify any potential conflicts rests principally with the attorney, in 1990 the FDIC Legal Division adopted comprehensive policies and procedures governing the retention of law firms and the waiver of actual or potential conflicts of interest. In 1989, the FDIC's conflicts procedures, however, were less formal. Prior to their retention, firms generally were required to respond to a series of questions regarding past and current representations. Unfortunately, in early 1989, due to the tremendous increase in workload as a result of the FDIC's added FSIC responsibilities,

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The relevant provisions under the Arkansas rules of professional conduct provide that:

"A lawyer shall not represent a client if the representation of that client will be directly adverse to another client, unless: (1) the lawyer reasonably believes the representation will not adversely affect the relationship with the other client; and (2) each client consents after consultation"; and

"A lawyer shall not represent a client if the representation of that client may be materially limited by the lawyer's responsibilities to another client or to a third person, or by the lawyer's own interests, unless: (1) the lawyer reasonably believes the representation will not be adversely affected; and (2) the client consents after consultation."

The Firm's Prior Representation

The information regarding whether the Firm disclosed that it had represented the S&L on the prior securities matter is unclear. The more important question, however, is whether a conflict of interest existed that should have been disclosed before the firm agreed to represent the conservator.

In essence, the Firm represented the S&L's interests before the Securities Commissioner in 1985 and it was representing the S&L's interests (on behalf of the S&L's conservator) in 1989. Previous representation of an institution by itself does not create a conflict when a subsequent conservator is appointed for the institution. There is no indication in the records, or based on our review, that the Firm did anything more with respect to the audit in question than take it at face value in its representation in 1985. There did not appear to be any divergence of interest between their representation in 1985 and 1989. As a consequence, the Firm's representation in 1985 was not "directly adverse" to its representation of the Conservatorship in 1989.

In addition, we have found no evidence that the Firm had a close relationship with the S&L which might call into question its independence. The Firm did not serve as general counsel or exclusive or frequent counsel for the S&L. In addition, no member of the Firm served in any senior managerial or directorial

such inquiries were not always documented. In this instance, there are no documents showing what inquiry was made of the Firm.

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relationship with the S&L prior to its failure.

Under the Model Rules, disclosure of prior representation such as involved here may not be required. However, where a firm is aware of such a prior relationship, we would expect it to convey that information to our staff to assist in determining whether to retain the firm. It is not clear whether the information was conveyed to the FDIC staff at the time. However, based on our review, we do not believe the prior representation represented a conflict of interest.

The Existence of a Suit Involving Mr. Hubbell's Family

It is uncertain whether the Hubbell/Ward relationship was disclosed at the time of retention. Nevertheless, it was clearly discussed within three months after retention and the staff attorney concluded there was no conflict. That assessment appears to be correct.

Mr. Hubbell had not represented Mr. Ward so there was no conflict of representation directly adverse to the Conservatorship. Also, Mr. Hubbell's representation of the FDIC did not appear to have any effect on Mr. Ward. Under Arkansas rules, unless Mr. Hubbell's representation of the Conservatorship would be "materially limited" by his "responsibilities to" his father-in-law or his own personal interests, no disclosure was required. Also, FDIC procedures, at that time, would not have required the disclosure of the relationship.

While concern was expressed by some FDIC staff shortly after the firm's retention that Mr. Hubbell would have access to information that could benefit his father-in-law, there is no indication any such information was transferred. Moreover, Arkansas rules of professional conduct (as do all state rules of conduct) prohibit an attorney from revealing information relating to representation of a client, unless the client consents after consultation. As a precaution, the firm apparently imposed its own informal "firewall" to prevent information regarding Mr. Ward from being passed on to Mr. Hubbell. Also, the FDIC's procedures at that time did not require disclosure of a relationship such as existed with respect to Mr. Hubbell and his father-in-law.

Therefore, no actual conflict appears to have existed. While in this case it is unclear whether advance disclosure was made and there was no requirement that Mr. Hubbell's relationship be disclosed, we want to emphasize that on an issue as subjective as this, we believe the better course would have been for the attorney to make clear and full disclosure in writing to the FDIC and let the FDIC as client determine whether in its judgment the representation at issue was likely to affect its interests.

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adversely.⁶ Nevertheless, that was not specifically required at the time and, when disclosure was made, the FDIC determined the representation was not adverse.

Conclusion

In 1989, the Legal Division lacked formal procedures regarding the determination of conflicts of interest and, at the same time, the Division's staff was experiencing an enormous increase in workload due to the rapidly expanding duties of the FDIC. As a consequence, in hindsight documentation regarding the retention of the firm is more limited than would be ideally hoped for. However, based on our review, we have found no basis to determine that either of the alleged instances involved a conflict of interest.

Therefore, we see no basis to recommend any sanctions against the firm.

⁶ In 1990, the FDIC adopted formal procedures to deal with conflicts which emphasized that waivers must be sought even where there is only the "appearance" of a conflict. Also, in 1990, the Supreme Court of Arkansas recognized that although the "appearance of impropriety" is no longer specifically a part of the state's rules of professional conduct the principle is still a part of the rules. First American Carriers, Inc. v. Krogar Co., 302 Ark. 86, 787 S.W.2d 669 (1990).



RESOLUTION TRUST CORPORATION

Receiving The Crisis
Restoring The Confidence

OFFICE OF CONTRACTOR OVERSIGHT AND SURVEILLANCE

INQUIRIES AND INVESTIGATIONS BRANCH

ROSE LAW FIRM
RTC/OCOS - T94002-WA

February 8, 1994

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ROSE LAW FIRM
OCOS FILE NUMBER: T94002-WA

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**ROSE LAW FIRM
OCOS FILE NUMBER: T94002-WA**

I. BACKGROUND:

This investigation was initiated based on accounts in The Washington Times and The Washington Post concerning a possible conflict of interest involving the Rose Law Firm (Rose), Little Rock, Arkansas.

Alleged Conflict:

1. In 1984 and 1985, Rose represented Madison Guarant Savings and Loan Association (Madison) before the Arkansas Securities Commissioner. In its representation of Madison, the law firm presented and relied upon an audit report issued by Frost & Company (Frost) on Madison. The law firm represented Madison in its attempt to obtain authorization from the Commissioner to issue a class of preferred stock and to engage brokerage activities.

2. In 1989, after the failure of Madison, the Federal Deposit Insurance Corporation (FDIC) hired Rose to sue Frost for accounting malpractice in auditing the Madison books in 1984 and 1985. The Frost audit was the same one previously used by Rose in making a case for Madison before the Arkansas Securities Commissioner in 1985.

Scope of the Investigation: This investigation focused on whether or not Rose disclosed its previous representation of Madison to the FDIC and RTC. Interviews of current or former Rose Law Firm attorneys who may be knowledgeable of this matter were not conducted.

II. ROSE LAW FIRM'S REPRESENTATION OF MADISON SAVINGS & LOAN:

Charles F. Handley, Financial Examiner Supervisor, Arkansas Securities Department, provided documentation that established that Rose did represent Madison before the Department during 1984 and 1985:

1. Attachment 1 is a copy of a letter from the law firm, dated April 30, 1985, to Mr. Handley. The letter identified Hillary Rodham Clinton or Richard Massey as the firm point of contact for further information.

2. Attachment 2 is a copy of a handwritten memorandum dated May 6, 1985, addressed to "Brady." The unknown author of the memorandum instructed "Brady" to "please review and draft response to Hillary."

3. Attachment 3 is a copy of an office routing slip dated May 6, 1985, from "Charles" referring to an April 30, 19

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letter from the firm setting forth Madison's plan to issue preferred stock and a legal opinion that Madison could issue such stock. The author expressed doubt that Madison could enter into such a business practice.

4. Attachment 4 is a letter, dated May 14, 1985, from Beverly Bassett, Savings and Loan Supervisor, to Ms. Clinton, relevant to the authorization and issuance of a class of preferred stock by Madison. Ms. Bassett's letter stated she agreed with Ms. Clinton's conclusion that Arkansas law expressed that state chartered associations the power to authorize and issue preferred stock.

5. Attachment 5 is a letter, dated July 10, 1985, from Mr. Massey, Rose, to various officials of the Arkansas Securities Commission, relevant to Madison's application to engage in brokerage activities. Mr. Massey stated in his letter that either he or Ms. Clinton could be contacted if there were any questions.

6. Attachment 6 is a memorandum, dated July 17, 1985, from Mr. Handley to Ms. Bassett and Nancy Jones regarding Madison's application to form a second-tier, wholly-owned S corporation, to engage in securities broker-dealer business. Mr. Handley expressed his concern about adjustments made to Madison's net worth by Madison's accountants in the December 1984 audited financial statement.

7. Attachment 7 is a letter, dated July 25, 1985, from Mr. Massey to various officials of the Arkansas Savings & Loan Supervisory Board, relevant to Madison's application to engage in brokerage activities. The letter essentially disagreed with Mr. Handley's previous letter of July 17, 1985.

SUMMARY: Rose did represent Madison prior to the failure of the savings and loan.

IX. ROSE LAW FIRM REPRESENTATION OF THE FDIC/RTC:

A. April A. Braslaw, Attorney, Professional Liability Section, RTC, Washington, D.C., provided information and documentation to support that Rose did represent the FDIC/RTC Madison against Frost.

1. In 1988, Madison filed an accounting malpractice lawsuit against Frost. In 1989, Madison went into conservatorship. At that time, Ms. Braslaw, Attorney, FDIC Directors and Officers Liability Section, replaced Madison's counsel with Rose. The law firm was retained to continue pursuing the accountant malpractice suit against Frost (Attachments 8 and 9).

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2. Ms. Breslaw stated that the lawsuit filed by Rose on behalf of the FDIC (and subsequently the RTC) and Madison centered on the fact that Frost, during their 1984-1985 audit, failed to detect that Madison was insolvent (Attachment 10).

3. Ms. Breslaw stated that the case was settled in 1991 for \$1,025,000 (Attachment 10).

4. Ms. Breslaw provided several of the law firm's billings to FDIC/RTC for its representation in the matter of FDIC/RTC v. Frost & Company and Madison Guaranty Savings and Loan Association (Attachment 11).

5. Further, Ms. Breslaw obtained written confirmation from Rose that the firm billed the FDIC/RTC for a total of \$400,879.55 in the matter FDIC/RTC v. Frost & Company and Madison Guaranty Savings and Loan Association (Attachment 12).

6. In addition to Madison, Rose represented and continued to represent the RTC in legal matters involving institutions other than Madison (Attachment 13).

SUMMARY: Rose represented the FDIC and the RTC. In one particular matter, the firm pursued a malpractice suit against Frost for negligence in determining the true financial condition of the Madison during its audit of the institution.

IV. POSSIBLE CONFLICTS:

A. Frost Matter: Rose represented Madison before the Arkansas Securities Department. That representation involved S&L's attempts to obtain authorization to issue preferred stock and to engage in brokerage services. The firm utilized the Frost audit of Madison's condition to support the request for authorization.

1. Later, Rose was retained by the FDIC (and subsequently the RTC) to pursue an accountant malpractice suit against Frost. The particular issue of the suit was the defective audit which failed to detect that Madison was insolvent.

B. Ward Matters:

1. In 1989, all files pertaining to the accountant malpractice suit filed against Frost and Company were delivered to Rose, specifically Webb Hubbell, a staff attorney (Attachment 14).

2. Mr. Hubbell is the son-in-law of Seth Ward, a Madison "insider", who obtained a judgment against Madison.

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approximately \$477,000 in 1989. Mr. Hubbell was present at the trial of the Seth Ward matter and appeared to have been an interested (indirectly) participant in the Ward proceedings (Attachment 15).

3. The judgement was appealed by the FDIC. Sue Strayhorn, FDIC Litigation Coordinator for Madison, advised that if a new trial was granted, information contained in the Frost audit files (of which Mr. Hubbell had knowledge) could be damaging to the FDIC case against Mr. Hubbell's father-in-law. Ms. Strayhorn brought this to the attention of Paul Jeddalo, FDIC Staff Attorney, in order to make him aware of the situation (Attachment 15).

4. This possible conflict was also raised by Ken Schnock, Madison's Credit Specialist. In addition to the Seth Ward matter, Mr. Schnock also stated that Mr. Hubbell's brother-in-law, Seth Ward II, had also filed suit against Madison. Mr. Schnock stated that during the course of the Frost suit, practices and procedures used in Madison's day-to-day operations would surely be examined. As such, Mr. Hubbell would be privy to this detailed information. Mr. Schnock suggested that it would be naive to think none of this information would be revealed to Mr. Hubbell's family (Attachment 16).

5. Ms. Braslaw responded to the concerns of Mr. Jeddalo, Ms. Strayhorn, and Mr. Schnock. On June 23, 1990, in a letter to David Paulson, Managing Agent, Madison, she found nothing to warrant taking the Frost matter away from Rose (Attachment 17).

SUMMARY: Based on the information obtained to date, none of the above two matters were disclosed by Rose. (See Section below for further disclosure discussion.) The matter involving Seth Ward was brought to the attention of the staff attorney Madison, April Braslaw, by FDIC attorneys. Ms. Braslaw subsequently determined that no conflict existed. It should be noted that at this time, 1989, there was no Outside Conflict Committee and there were no regulations, policy, or guidance regarding conflict matters. The process, according to Ms. Braslaw, was informal and situations were handled as they came to the attention of the staff attorney who handled that particular institution.

V. DISCLOSURES MADE BY THE ROSE LAW FIRM:

A. On October 3, 1990, Mr. Hubbell executed a Legal Services Agreement on behalf of Rose with the FDIC. Mr. Hubbell certified that, as part of its agreement with the FDIC, he would update any conflicts information in its annual report

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the FDIC. No disclosures were made by Rose at this time (Attachment 13).

B. On August 24, 1992, Mr. Hubbell, in a letter to the RTC provided detailed information on Rose. Mr. Hubbell stated that the firm's prior representation of the FDIC/RTC included Madison Guaranty Savings & Loan. No disclosure was made that the firm represented Madison prior to FDIC/RTC involvement.

1. In his letter, Mr. Hubbell disclosed an unrelated conflict involving a former member's alleged conflict of interest in acting as both borrower and attorney in connection with his personal credit arrangements at FirstSouth. The claim was subsequently settled and the member withdrew from the firm in March 1988.

2. Attached to Mr. Hubbell's letter was an RTC Fitness and Integrity Certification which fully disclosed details of the conflict involving the former member of the firm (Attachment 15).

C. On December 1, 1993, Mr. Hubbell executed a Legal Services Agreement with the RTC and stated the firm had no conflicts of interest with the RTC or FDIC (Attachment 20).

D. Ms. Breslaw, formerly FDIC and currently with the RTC advised that she has no recollection that the Rose Law Firm verbally disclosed to her its prior representation of Madison. Ms. Breslaw further stated she had no documentation regarding conversation wherein Mr. Hubbell told her about the firm's prior representation of Madison (Attachment 21).

SUMMARY: Rose disclosed one conflict of interest which was unrelated to the Frost or Ward matters. No documentation was found regarding a disclosure of either the Frost or the Ward matters.

VI. SUMMARY:

A. Rose represented Madison prior to its failure. In one particular matter, the firm represented Madison before the Arkansas Securities Department in the S&L's attempt to obtain authorization to issue stock and engage in brokerage activities. The firm's representation relied upon the Frost audit report.

B. Rose represented the FDIC/RTC subsequent to the failure of Madison. In one particular matter, the firm was retained to pursue an accountant malpractice suit against Frost for failure to detect the insolvency of Madison.

C. Rose did not disclose its representation of Madison before the Arkansas Securities Department to the FDIC/RTC.

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Further, it did not report possible conflicts involving the brother-in-law and father-in-law of Webb Hubbell, staff attorney at Rose. Both Seth Ward and Seth Ward, II, had filed suits against Madison. The FDIC became aware of this matter, but Ms. Breslaw, the FDIC attorney assigned to the Madison matters, determined that a conflict did not exist.

D. Ms. Breslaw, who was subsequently assigned to the RTC, did retain Rose in 1989 to represent the FDIC/RTC at Madison. Ms. Breslaw did not recall anyone at the firm telling her that the firm had previously represented Madison. No documentation was found which reflected that the firm had disclosed the representation.

E. A F&I Certification and Legal Service Agreements were reviewed and disclosed the firm did not disclose the Frost and Ward matters.

VII. DISPOSITION OF THIS REPORT:

A. This report is provided to the Office of the General Counsel for any action it deems appropriate.

B. This investigation was coordinated with the FDIC, who conducted a separate, independent investigation of these same matters. The FDIC investigating attorney is John Downing.

Attachments

ATTACHMENTS

1. Letter, dated April 30, 1985, from Rose to the Arkansas Securities Department.
2. Handwritten note, dated May 6, 1985, regarding Rose.
3. Handwritten note, dated May 6, 1985, regarding a letter from Rose concerning the Madison plan.
4. Letter, dated May 14, 1985, regarding issuance of preferred stock by Madison.
5. Letter, dated July 10, 1985, regarding Madison's application to engage in brokerage activities.
6. Memorandum, dated July 17, 1985, regarding the application submitted by Madison.
7. Letter, dated July 25, 1985, regarding the Madison application.
8. Correspondence relating to the transfer of the Frost Matt Rose.
9. Electronic mail, dated January 10, 1994, regarding billing submitted by Rose.
10. Electronic mail, dated January 11, 1994, regarding the law firm's involvement in Madison.
11. Assorted invoices from Rose regarding the Frost matter.
12. Letter from Rose confirming its representation of the FDIC/RTC in the Frost matter.
13. Listing of matters handled by Rose for the FDIC/RTC.
14. Letter to Rose regarding the Frost lawsuit files.
15. Letter regarding conflict concerns to Braslaw.
16. Letter regarding conflict concerns to O'Donnell.
17. Letter regarding conflict concerns to Paulson.
18. Letter from Rose regarding RTC Legal Services Agreement.
19. Legal Services Agreement between Rose and the RTC.
20. Legal Services Agreement between Rose and the FDIC.
21. Electronic Mail, dated January 10, 1994, from Braslaw to multiple parties regarding this investigation.

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RESOLUTION TRUST CORPORATION

**Resolving The Crisis
Restoring The Confidence**

Karen L. Carmichael
Senior Attorney
Legal Division - PLS
7400 W. 110th, Suite 400
Overland Park, Kansas 66210
(913) 344-8100
Fax No.: (913) 344-8185
Direct Line: (913) 344-8438

INTEROFFICE MEMORANDUM

DATE: October 7, 1993

TO: Julie Fry Yanda, Counsel
Section Chief, PLS
Kansas City Office

FROM: Karen L. Carmichael, Senior Attorney, PLS
Legal Criminal Coordinator
Kansas City Office

Philip J. Adams, Senior Attorney, PLS
Kansas City Office

This Document is
13 pages in length.



RESOLUTION TRUST CORPORATION

Resolving The Crisis
Restoring The Confidence

June 17, 1993

MEMORANDUM TO: All RTC Investigations Department Heads
(Field Sites)
All Investigations Staff (Washington)
All Assistant General Counsel (Field Sites)
All Litigation, Professional Liability,
and Complex Litigation Section Chiefs
(Field Sites)
All Litigation, Professional Liability,
and Complex Litigation Attorneys
(Washington)

FROM: James R. Dudine *JR Dudine*
Director
Office of Investigations
Thomas L. Hindes *TH Hindes*
Assistant General Counsel
Professional Liability Section
James M. Barker *JB*
Assistant General Counsel
Litigation Section
Jerry Patchan *JP/Barker*
Assistant General Counsel
Complex Litigation Section

SUBJECT: Criminal Referrals

1. Purpose: To consolidate instructions and guidance on making criminal referrals to the U. S. Department of Justice and other agencies.

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2. Policy: Whenever an investigator, attorney, or contractor for RTC discovers "suspected criminal activity," that person shall prepare a criminal referral, using the standard Interagency Criminal Referral Form, in accordance with filing instructions and the following guidelines. For purposes of making a referral, "suspected criminal activity" means that there is a reasonable basis to believe that a crime has or may have been committed, i.e., there's evidence of wrongdoing or a factual basis for the belief (not merely a suspicion). Except in rare circumstances, criminal referrals shall be reviewed by RTC Investigations and Legal Division Criminal Coordinators ("RTC Criminal Coordinators") before they are delivered to the U.S. Attorney and the FBI or other investigative agency. RTC Criminal Coordinators shall make certain that all required information and support documents are provided.

3. Handling of Criminal Referrals: All referrals are sensitive and must be handled with appropriate confidentiality and care. Most RTC criminal referrals are made to the U.S. Department of Justice (including the U.S. Attorney's Office and the FBI). In such cases, each referral should be accompanied by a cover letter signed by a supervisory official; this may be a Section Chief, Department Head, or, in appropriate cases, the Criminal Coordinator. When the criminal referral includes records or information derived from the records of a customer who is an individual or a partnership consisting of five or fewer individuals, the signing official must make the following certification in the cover

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letter, as required by the Right to Financial Privacy Act,
12 U.S.C. § 3412(f):

The information pertaining to this matter may have been derived from the financial records of customers of federally insured financial institutions. I hereby certify that (A) there is reason to believe that these records may be relevant to a violation of a federal criminal law, and (B) the records were obtained in the exercise of RTC's supervisory or regulatory functions.

Referrals for money laundering and other financial crimes may also be made in this manner to components of the Treasury Department (e.g., the Secret Service). In cases of referrals to other federal agencies, the Legal Division Criminal Coordinator should be consulted to ensure compliance with the other requirements of the Right to Financial Privacy Act.

Copies of significant criminal referrals should also be sent to the Office of Investigations, Washington, D.C. Significant referrals are those which qualify to become "major" cases under DOJ guidelines: (1) Loss due to apparent criminal conduct is \$100,000 or more; (2) The apparent criminal conduct involves a director, officer, professional (e.g., attorney or accountant), or shareholder of the institution; or (3) Other compelling reasons (e.g., the apparent misconduct is part of a pattern or practice involving other financial institutions or the scheme or

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suspects pose a threat to operating financial institutions). As with all other criminal referrals, official file copies must be retained in the field office.

4. Coordination with Other Agencies: In accordance with a recent agreement, RTC-generated criminal referrals will be forwarded to the Department of the Treasury's FINCEN office, to be included in a national database of referrals submitted from financial institution regulators, banks, credit unions and savings associations. Refer to the filing instructions contained on page 3 of the Interagency Criminal Referral Form.

5. Compliance with Senior Interagency Group Policy Statement Regarding National Policy on Collection and Reporting Procedures for Restitution Payable to Financial Institution Regulatory Agencies ("SIG Policy Statement"): RTC Criminal Coordinators shall be responsible for contact with other agencies to insure compliance with the SIG policy statement adopted June 25, 1992. It is essential that all communication with the appropriate investigative agency and/or the USAO or DOJ trial attorney be coordinated in advance between the Legal and Investigations Criminal Coordinators. The line of communication should remain open from the time the referral is made through final disposition, including collection of any amounts due under a criminal restitution order.

6. Record Keeping: It is very important that all criminal referrals and the subsequent case and sentencing status be entered into the Thrift Investigations Management System (TIMS). Referrals which were filed by an RTC institution before it failed or by a regulatory agency (OTS or FDIC) which name specific individual(s); and for which the statute of limitations has not expired or for which a criminal case has been initiated (via indictment or information filing) must be entered into TIMS as well. Do not enter inherited referrals which do not name the suspect (e.g. naming "unknown," or "unidentified employees").

A file must be maintained in the field office by the designated Investigations Criminal Coordinator for each referral with supporting documentation and subsequent correspondence. These records are highly confidential and should be treated accordingly (e.g., kept in secured/locked cabinet).

The completed referral form and some related records are subject to the applicable provisions of the Privacy Act of 1974, 5 U.S.C. § 552a, and may not be disclosed to the public in response to a request under the Freedom of Information Act, 5 U.S.C. § 552, or as part of a litigation discovery process. Any requests for referral information from non-regulators or non-RTC investigative or legal staff should be promptly referred or forwarded to the field office Legal Division Criminal Coordinator and the attorney(s) with litigating responsibility (Litigation, PLS, and/or Complex Litigation) for the institution. Outside counsel and

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investigative contractors may have access to these records under the close supervision of the attorney with litigating responsibility for the matter or Investigations, as appropriate. Outside contractors should be advised of the sensitivity of case materials and that disclosures are prohibited.

7. Attachments and References: This directive replaces all others previously issued on this subject. A sample Interagency Criminal Referral Form and SIG Policy Statement are attached. Please review the Investigations Section of the Conservators' Operating Manual and Directive 91-097 issued by OIG. Most of the relevant federal bank fraud statutes are contained in Title 18, U. S. Code.

Attachments

CHRONOLOGY OF WHITE HOUSE CONTACTS

- 9/23/93 James Dudine, Director, Office of Investigations, RTC, stated that he advised Steve Katsanos, Director, Office of Corporate Communications, RTC, that RTC had criminal referrals relating to the collapse of Madison Guaranty about ready to go and that Sue Schmidt, Reporter, Washington Post, was getting close to something. (Dudine, pgs. 20-22)
- 9/93 Dudine indicated that sometime during this period at a weekly briefing on PLS matters, he apprised Bill Roelle, then Senior Vice President of RTC, and Gilon Curtis, then Acting General Counsel of RTC, that RTC had criminal referrals ready to go and that reporters were asking questions, although they didn't know about the referrals at this point. Roelle instructed the staff to make the referrals as fast as they could and to handle them in a normal manner. (Dudine, pgs. 20 and 22)
- 9/27/93 Dennis Cavinaw, Vice President, Kansas City (KC) Regional Office, faxed to Roelle a brief synopsis of the criminal referrals. (Roelle, pgs. 8-11)
- Roelle stated that he called Roger Altman, Deputy Secretary of Treasury and then Acting CEO of RTC, to advise him of the criminal referrals relating to Madison Guaranty. Roelle stated that he started describing each referral, but Altman stopped him after about five minutes and told him that he really didn't understand what this was all about and that he would have Jean Hanson, General Counsel, Treasury, call him to get the information. Roelle explained that he had called Altman because the referrals mentioned the Clintons and it was RTC policy to keep the CEO informed of high profile cases. He noted that he had previously briefed RTC's prior CEO on a 1992 criminal referral relating to Madison (Roelle, pgs. 1-13).
- Altman stated that he had no recollection of telling Roelle to contact Hanson. (Altman (1), pg. 22)

Indicates no specific date.

James Dudine
Notes of Interview on August 1, 1994

Present: Jim Dudine, Denise Lindsey (RTC), Dick Leon, Gary Parker, Dennis Kane, and Joe Reilly.

Dudine is the Director of the Office of Investigations. He has been director since joining the RTC in December 1989. Before that he worked for the FDIC.

Dudine talked about how criminal referrals are handled by the RTC. Generally, investigators in the field office send criminal referrals directly to the District Attorney's office. RTC uses the same procedure and same form that the bank and thrift regulators use and that banks and thrifts use. Generally, Washington is not notified of the criminal referrals unless the referrals are going to name a high profile individual.

In the case of the 1992 criminal referral, Roelle and Dudine was notified about the referrals and a copy was sent to Dudine. Dudine did not know about the criminal referral until it was sent. Dudine was kept informed by people in the field of the progress and had discussions with the Kansas City office about how the Justice Department was handling the referral.

In the case of the 1993 criminal referrals, Dudine was made aware of them as early as May, which was sort of unusual. In September of 1993, before the referrals were actually sent to the Justice Department in Little Rock, Dudine asked that the referrals be sent to Washington for review. Again this was rarely done. Dudine claims that the Kansas City RTC criminal investigator and the criminal coordinator (Karen Carmichael) were disagreeing on whether the criminal referrals concerning Madison were sufficient and this disagreement was holding up the process. The referrals were overnighted on September 23-24. He had a brief conversation with Roelle at this same time about the referrals and the information contained in the referrals. He and Carl Gamble (head of Washington PLS) reviewed them and believed that the criminal referrals met the legal standard. They then had a conference call with the investigators. They asked that the criminal referrals be sent as quickly as possible. Dudine got the finalized criminal referrals in January. Dudine has not reviewed the criminal referrals to see if the referrals sent in September were modified before they were sent to Little Rock, but said that the criminal coordinator prepared an additional document which accompanied the referrals. The referrals were sent to Little Rock on October 8, 1993.

Sometime in the fall, RTC Vice President Cavanaugh sent front cover of the 1993 referrals to Roelle. Last week of September, Sue Schmidt started making press inquiries about criminal referrals.

Why Jean Lewis was pulled from the Madison case?

Late November or early December, the Justice Department was

complaining about documents not being provided. Ken Donahue from his staff went to Washington, DC to investigate problems between Karen Carmichael and Jean Lewis. It was then mutually decided by management in Kansas City (Iorio and Julie Yanda) to pull both of them off Madison.

Creation of Madison Task Force.

A task force in January 1994 was created by the legal people to review whether to revive the claims. Dudine sent Gary Watts to Kansas City in January to find all records concerning Madison.

CONFIDENTIAL

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UNITED STATES DEPARTMENT OF THE TREASURY
OFFICE OF INSPECTOR GENERAL

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In the Matter of: :
WHITE HOUSE CONTACTS :
CONCERNING THE MADISON : Case No. 94-1-031-I
GUARANTY SAVINGS & LOAN :
E. Glion Curtis, Interviewee :
(CLOSED) :

- - - - -X

Resolution Trust Corp. Bldg.
Suite 900
900 Seventeenth St. N.W.
Washington, D.C. 20220

Friday, July 8, 1994

The above-entitled matter commenced at 10:55 a.m.,
when were present:

Redacted

ANN RILEY & ASSOCIATES, LTD.
Court Reporters
1250 I Street, N.W., Suite 300
Washington, D.C. 20005
(202) 842-0034

CONFIDENTIAL

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1 APPEARANCES:

2
3 For the Resolution Trust Corporation,
4 Office of Inspector General:
5

6 SARA B. HERLIHY, Senior Special Agent

7 JOAN DWYER, Special Agent

8 1735 N. Lynn Street, Room 1163

9 Rosslyn, Virginia 22209

10 (703-908-7852)
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P R O C E E D I N G S

[10:55 a.m.]

MS. HERLIHY: We have already identified ourselves. I am Sara Herlihy, this is Joan Dwyer, we are both agents with the RTC.

And Mr. Curtis, we have explained to you the purpose of the interview --

THE INTERVIEWEE: Yes.

MS. HERLIHY: -- which is to gain information regarding contacts made with the White House, with Treasury, involving Madison.

THE INTERVIEWEE: Yes.

MS. HERLIHY: We would like to put you under oath at this time.

Whereupon,

E. GLION CURTIS,

the interviewee, was called for examination by the Department of the Treasury and, having been first duly sworn, was examined and testified as follows:

EXAMINATION

BY MS. HERLIHY:

Q First if we could get a little background information for the current position?

A I am currently Regional Counsel for the FDIC in its Southeast Service Center located in Atlanta, Georgia.

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1 Q And you have been there since?

2 A Since January, early January of this year, of
3 1994.


4 Q And what's your business address?

5 A It is 285 Peachtree Center Avenue, Suite 600,
6 Atlanta, Georgia 30303.

7 Q And phone?

8 A 653-2958.

9 Q Before you became regional counsel for FDIC, where
10 were you employed?

11 A My permanent assignment was as region -- actually
12 we called ourselves Assistant General Counsels for the 
13 Resolution Trust Corporation in the Kansas City office. It
14 was equivalent to regional counsel but I headed up the legal
15 office in Kansas City.

16 And I left that post immediately prior to assuming
17 the FDIC post in Atlanta. I served in that capacity in
18 Kansas City since the -- since the inception of RTC in
19 August of '89.

20 Q It's my understanding that during a period of time
21 you also served as acting general counsel for RTC?

22 A Yes. In approximately, what, August, September,
23 of 1992, I believe, at the time that the then general
24 counsel -- his name escapes me, but he left and Mr. Aboussie
25 became acting general counsel.

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1 He called me and asked me whether I would come to
2 help him in D.C., to assist him in D.C., which I did, in an
3 undefined capacity through the end of that year. Then in
4 the beginning of 1993, I served as his acting deputy general
5 counsel until that summer. I went back to my post in Kansas
6 City and then a month or so after returning to Kansas City,
7 I was called once again to D.C. to serve as acting general
8 counsel when Mr. Aboussie left that post. And I served in
9 that acting capacity through the fall of 1993.

10 Q And when was the beginning of that?

11 A I would -- I am guessing now but my recollection
12 is it started in early October of 1993 and ran through
13 almost the end of the year. I think I left at the -- just
14 before the Christmas holiday.

15 Q Of '93?

16 A Yes.

17 BY MS.DWYER

18 Q December of 1993?

19 A Yes.

20 Q From October of '93 through December of '93, were
21 you in D.C.?

22 A I was commuting on a weekly basis. I would come
23 in either Sunday night or Monday morning from Kansas City
24 and stay through Friday, when I would return home. In fact,
25 I was doing that for the 18 months from fall of -- what was

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1 it, around September of '92 through December of '93.

2 BY MS. HERLIHY:

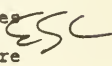
3 Q I'm sorry. I missed the ending date there that
4 you were actually acting general counsel. That was
5 December?

6 A It was late December, essentially just before the
7 holiday -- the Christmas holiday season when I returned to
8 Kansas City and then packed up my office and moved to
9 Atlanta.

10 Q Okay.

11 First, I guess, I'd like to get your overall
12 responsibilities when you were regional counsel or assistant
13 general counsel in Kansas City.

14 A In Kansas City for the RTC. Yes. I headed up the
15 legal office that, of course, supported the RTC's divisions
16 that were located in Kansas City that provided -- it was
17 essentially providing legal support as needed. We had, oh
18 boy, three broad responsibilities, obviously to provide
19 litigation support, a very important part of it. But then
20 also to provide support for the takeover of failed S&Ls and
21 then finally the third broad area, was to, of course, assist
22 the corporation, the local office there, in disposing of
23 assets.

24 There were any number of other responsibilities
25 such as supporting the contracting effort. ^{But} ~~But~~ those were 

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1 the three main areas. And, as I say, I headed up the office
2 and formed the office, managed it.

3 Q What was your responsibility with regard to PLS
4 cases?

5 A That changed over the period. At first it was
6 minimal. We -- the office, my administrative staff,
7 essentially, was responsible for providing administrative
8 support but the substance of the PLS matters, the direction
9 on PLS matters, emanated from an office here in Washington.

10 Q And what was that office?

11 A I don't know its name at the time-- but it was
12 essentially the PLS office here.

13 I can't date the change but at some point, about
14 the time actually that Jerry Jacobs -- that's the name I
15 forgot earlier. He was the general counsel who left in '92.
16 But just about the time Jerry Jacobs left as general
17 counsel, there was a decision to bring PLS under the
18 direction and control of -- of the field AGCs, Assistant
19 General Counsels.

20 So we operated in that mode for a time and then I
21 don't know whether we ever formally went back to the old
22 method. But it certainly now, I believe, RTC operates under
23 the old method where the PLS actions are directed from
24 Washington with little or no input from the field.

25 Q Did you ever have any responsibility for the

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1 Office of Investigations when you were in the regional
2 office?

3 A No, no, no. That was always what we called the
4 client's responsibility.

5 Q Did that -- how about when you were serving as
6 acting general counsel?

7 A Again, during my tenure as general counsel, the
8 responsibility for the investigative offices was part of
9 Bill Roelle's responsibilities and not Legal's. Again, I
10 understand, since my departure as acting general counsel,
11 there has been a change there. But, during my tenure, we
12 had no responsibility for investigations.

13 Q When you were -- and this will be kind of a two-
14 tiered approach, first asking who you reported to when you
15 were in the regional level and then when you were in D.C.

16 A Yes.

17 Q So when you were in Kansas City, who -- who did
18 you report to?

19 A At all times in Kansas City, my reporting line, my
20 direct report, was to the general counsel's office here in
21 Washington. Typically there was somebody on staff here in
22 Washington to whom we had direct report. At one time, it
23 was Mr. Barbara.

24 When I first came to Washington to help
25 Mr. Aboussie out, I assumed that responsibility, informally

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1 at first and then as deputy. When I became acting general
2 counsel, I asked a Mr. James Barker to fill that role and he
3 did.

4 Q Who did you report to when you were in D.C. as
5 acting general counsel?

6 A As acting general counsel, clearly my -- my direct
7 responsibility from the organizational standpoint was to the
8 then interim chief executive officer, Mr. Altman. From a
9 practical standpoint, though, I rarely -- in fact I don't
10 recall ever dealing with him on one-to-one basis. I -- my
11 responsibilities from a practical standpoint were through
12 the general counsel at Treasury, Jean Hanson.

13 Q Were you ever instructed that Jean Hanson would be
14 the person you were to report to, or how did that evolve
15 that you reported to her rather than Mr. Altman?

16 A I don't recall any direct instruction on that
17 point. Certainly not from anyone other than Jean. But it
18 was just clearly understood from the first day that I came
19 on as acting general counsel that she would be my principal
20 contact on matters for Mr. Altman's attention.

21 BY MS. DWYER:

22 Q Did she advise you of this?

23 A Yes, informally.

24 Q So nothing was put in writing?

25 A I don't recall. I don't recall. I --

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
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1 BY MS. HERLIHY:

2 Q What -- were there any expectations laid out as to
3 what sorts of things you would have to elevate to Jean
4 Hanson or to Treasury and what decisions you could make on
5 your own as acting general counsel at RTC?

6 A Not any exhaustive review of that. I think it was
7 generally understood what matters required consultation with
8 them.

9 As General Counsel, I had, of course, a formal set
10 of corporate delegations to me. These were not special,
11 prepared when I assumed the position. These were the
12 general corporate delegations, and ⁱⁿ the RTC culture, ran from 
13 the CEO directly to the -- not only the agency heads, but
14 subordinate positions with the departments.

15 These were direct delegations from CEO to titled
16 individuals within the organization. So --

17 BY MS. DWYER

18 Q So was there a change when Treasury became
19 involved with RTC?

20 A No, not that I'm aware of. We continued to
21 operate under those delegations as originally set up by
22 former CEO Casey. And that was understood. I mean, that
23 was clearly my authority to act, but on an informal basis,
24 you know, there were -- on my own initiative, and on
25 suggestions, I'm sure, there were plenty of things that were

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1 brought to the attention of Ms. Hanson just because they
2 appeared to present either unique questions, or questions of
3 some import otherwise.

4 BY MS. HERLIHY

5 Q Is it your understanding that after Mr. Altman
6 left as interim CEO that, were there any reporting
7 responsibilities that continued to Treasury?

8 A I'm not -- I left before Mr. Altman left. So I'm
9 not -- I can't speak to that. I just don't know.

10 Q And when you came on as acting general counsel, he
11 was already in place?

12 A Oh, yes. For some time.

13 Q So you're not aware of how operations ran before
14 Mr. Altman?

15 A Not in my capacity as acting General Counsel. I
16 was of course very much aware from the regional perspective
17 of how they operated.

18 Q Were you aware there was a -- was there a major
19 change when Mr. Altman --

20 A Not that I'm aware of, no.

21 Q In terms of your reporting to Jean Hanson, would
22 you get into substance of issues in your dealings with her?
23 Were there any kind of privileged -- since she was not the
24 interim CEO, was she entitled to the same sort of
25 information you could share with Mr. Altman?

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1 A I never felt constrained. I felt that my
2 discussions with her were tantamount to discussing it with
3 Mr. Altman.

4 But, also I'll say the -- my recollection was that
5 the discussions were principally on process more than
6 substance.

7 Q During your tenure as acting General Counsel, were
8 there a number of vacant positions, senior positions --

9 A Oh, yes. Yes.

10 Q -- in the legal department?

11 A Yes.

12 Q How did it affect or impact on the operation?

13 A [Laughing.]

14 Very severely. At the time I left, if I remember
15 correctly, out of the top six positions, there was only one
16 permanent position filled. Everything else was filled by
17 temporary appointments, such as myself, my deputy, three of
18 the four associate general counsels.

19 The only person at the time I left that was
20 sitting in her permanent role is Shelia Cahill, as associate
21 general counsel. All the others were interim or, you know,
22 temporary appointments.

23 So, yes, it had a very drastic, adverse effect in
24 the efficiency and productivity of the division.

25 Q During that time were there individuals from

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1 Treasury that were used to fill these vacancies, or to
2 provide support in the Legal Division?

3 A Not to fill vacancies. Not to serve in a titled
4 position. But, yes, there was support provided by Treasury.

5 Q Can you recall those individuals' names?

6 A Yes. John Bowman, principally.

7 Q In what capacity did --

8 A Just an informal adviser. He was as much a
9 liaison between my office and Jean Hanson's office.

10 Q Was a full-time detail during --

11 A No. He essentially maintained an office at the
12 801 building, at the headquarters of RTC, and also
13 maintained his office and, as far as I know, his -- the full
14 scope of his responsibilities at Treasury, as well.

15 Q So, other than Mr. Bowman and Ms. Hanson, was
16 there anyone else at Treasury you dealt with?

17 A Yes. I believe Tom McGivern. And there may have
18 been others but those were -- those were the two that I
19 became familiar with.

20 MS. HERLIHY: Joan, do you have any more questions
21 as to background?

22 MS. DWYER: Not for that section.

23 MS. HERLIHY: Okay.

24 BY MS. HERLIHY:

25 Q Moving on to the Madison matter, and then I guess

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1 we need to take a two-tier approach.

2 When were you first aware, or became aware of
3 anything involving Madison Guaranty? In what capacity were
4 you serving?

5 A Yeah.

6 BY MS. DWYER:

7 Q Why don't we address the criminal referral first;
8 then we'll get into the civil referral, if you have any
9 information on the civil part of it.

10 A I'm not sure I could distinguish the two.

11 Let me, if I may respond to your more general
12 question, it would be practically at the inception of RTC.
13 In fact, before RTC came into being, FDIC had already
14 organized itself to assume responsibilities for failed and
15 failing S&Ls.

16 And at the very earliest stage, before the RTC had
17 set up its regional structure, the State of Arkansas was
18 being handled by our Chicago, the FDIC Chicago office.

19 And then, when I became Assistant General Counsel
20 for RTC -- in fact, at that point, we may even have been
21 calling ourselves regional counsel.

22 But, when the Kansas City office got organized, at
23 that point, there was a handoff so that I turned over to
24 Chicago all of my bank responsibilities and Chicago turned
25 over to me all of their S&L responsibilities.

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1 And, at that point, I became cognizant of Madison
2 County Guaranty and of in a broad sense the issues emanating
3 out of that receivership.

4 BY MS. HERLIHY:

5 Q When did you first become aware of what I'll
6 characterize as the Whitewater issues at Madison?

7 A Not until September-October of -- what was that?
8 Ninety-three.

9 Q Let me try and think. Were you at -- were you
10 acting General Counsel there?

11 A I just had started as acting general counsel.
12 Maybe -- maybe, a month before, when I was just, you know,
13 when I'd just come back to my office in Kansas City and the
14 so-called [REDACTED] criminal referrals were being
15 considered at the local Kansas City office.

16 Q Well, when you were at -- just for simplicity's
17 sake, I'll call you regional counsel?

18 A Yes.

19 Q Okay. When you were the regional counsel there,
20 were you aware of any criminal referral being prepared, or
21 an issue about whether a criminal referral should be made?

22 A Yes. The [REDACTED] that I just spoke of.

23 Q And how? That was before you came to D.C.?

24 A Yes. Well, in a very narrow context. Again, as we
25 noted earlier, I had no direct responsibility over

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1 investigations. And, of course they had the principal
2 responsibility for investigating.

3 And if they determined that possible criminal
4 activity warranted a referral to the appropriate law
5 enforcement, criminal law enforcement authorities, they had
6 full authority to generate those.

7 Our role -- that is, Legal's role, and my office's
8 role -- in that was simply to provide a review and opinion
9 as to the merits of the referral.

10 And the way I became aware of those [REDACTED] referrals
11 was when the section chief in charge of PLS in Kansas City
12 came to me because she was being asked to pass on these [REDACTED]
13 referrals and not being given sufficient time to complete
14 that process.

15 So she asked me to intervene to get more time
16 before her deadline was to respond to the client.

17 BY MS. DWYER:

18 Q And what was her name?

19 A Julie Yanda, Y-a-n-d-a.

20 Q Did she say who was putting this pressure on her?

21 A It was -- it was nothing unusual. We were always
22 operating under tight deadlines, but this one, the volume of
23 the referrals and their -- she just because of the press of
24 other matters felt that she couldn't do a complete job, and
25 was concerned. So she came to me to see if I could gain

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1 more time for her.

2 I called the vice president of the office, Mr.
3 Cavanaugh, Dennis Cavanaugh, and we agreed that an
4 additional week would be allowed.

5 So that was my first direct knowledge that there
6 were -- there was a possibility that criminal referrals in
7 addition to the earlier two would be forthcoming.

8 BY MS. HERLIHY:

9 Q So this is the -- what I'll call the second set of
10 referrals?

11 A That's my casual understanding. I wasn't even
12 aware of the earlier two --

13 Q Until this time --

14 A -- until this new set came up, yes.

15 Q All right. So what did you learn about the
16 referrals at this time?

17 A Not much. I mean, I knew that -- I knew that, at
18 that point, I knew that the Investigative Unit was prepared
19 to file these reports of possible criminal activity that we
20 under PLS procedures had an obligation to review them and
21 comment on them.

22 And, beyond that, I didn't learn much.

23 Q Did you receive a copy of the [REDACTED] referrals?

24 A I may have, but I didn't retain them. I do recall
25 getting a copy of the PLS opinion regarding the referrals.

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1 Q Let me ask a procedural question. You said PLS
2 procedures, you are required to comment and review on this.
3 What was the purpose of that review? Did they have the
4 right of a ruling of a referral going out?

5 A No, specifically we did not. At least my
6 understanding is is that we did not. We could not -- our
7 review was simply to provide further assistance to the
8 investigator, but it was entirely their call whether they
9 proceeded to file with the criminal authorities or not.

10 Q And would the investigations office have been
11 headed up by who at the time?

12 A In Kansas City, I believe it was Iorio. I don't
13 know his first name. I-o-r-i-o, I believe.

14 Q Do you recall what the opinion PLS issue was on
15 that?

16 A Not as to any of the specific ones. [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED]

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1 [REDACTED]
2 [REDACTED]
3 [REDACTED]

4 Q Did you issue anything in writing to that effect?

5 A Not that I recall.

6 Q So the only thing there would have been to
7 document this was Ms. Yanda's --

8 A Yes.

9 Q Okay. And PLS, as I understand was separate --

10 A At that point -- no. At that point, Julie Yanda
11 reported to me indirectly.

12 My organization in Kansas City was to have section
13 chiefs as the first tier of supervision. They then reported
14 to -- oh, Lord, what were they called -- I am forgetting
15 titles now, but they reported through an intermediate level.

16 In Julie's case she was part of the litigation arm
17 of my office, so she reported through Russell Kaufman, and
18 Russell to me.

19 Q But you were --

20 A But I --

21 Q This was something elevated to your level?

22 A Yes. I very often dealt directly -- well, you
23 know, absences from offices. It was a smallish office and
24 the reporting lines were fairly clearly established, but at
25 the same time we ran a fairly collegial -- operating in a

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1 fairly collegial environment.

2 So it was not at all unusual for a section chief
3 with an issue to come directly to me.

4 Q Do you recall at that time whether there was any
5 issue about the President or Mrs. Clinton being named in the
6 referral?

7 A Yes, I was aware of that at the time.

8 Q If you could describe what the issue is.

9 A I did not look into it myself, but I was just
10 aware that in those [REDACTED] criminal referrals there was
11 purportedly a reference to Mrs. Clinton.

12 Q To Mrs. Clinton?

13 A Yes.

14 BY MS. DWYER:

15 Q Did you advise anyone of this, anyone else of this
16 in RTC?

17 A I didn't make a point of it, that I recall. I
18 mean, it was just a facet of those referrals.

19 BY MS. HERLIHY:

20 Q Was this part of the issue that was being reviewed
21 by PLS?

22 A No. Not as far as I know, and it was, I certainly
23 felt that it was not germane to the question of whether
24 these reports should go forward or not.

25 Q Did you -- were you aware whether they eventually

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1 did go forward?

2 A My belief is that they did.

3 Q Were you advised of that by somebody?


4 A Right after I completed that part, in fact, within
5 days of interceding to gain more time to complete our legal
6 review and to provide a written opinion as to the -- our
7 belief as to the merits of the complaints.

8 I then came to Washington to serve in my capacity
9 as Acting General Counsel, and it is at that point that I
10 became aware some weeks or months later -- I was told that
11 the reports had left the organization and had been filed
12 with, I believe, Justice Department.

13 Q While you were regional counsel, you learned that
14 there is this referral and it names Mrs. Clinton?

15 A Yes.

16 Q Do you recall at all whether you contacted your
17 superiors in Washington to report this? Anybody in the
18 chain of command to alert them of this?

19 A I don't recall that I did. Because I have no
20 recollection of that, I doubt that I did to report this 
21 matter specifically, but it could have been reported as part
22 of a more general conversation on other matters. It may
23 have been included in a more general -- but I don't have any
24 recollection that I placed a call specifically because this
25 information came to my attention.

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1 Q Do you recall during this general timeframe
2 whether there were press inquiries made at the regional
3 level?

4 A Not to me certainly, and as to others I can't say.

5 Q So you were not dealing with press issues in
6 regard to it?

7 A No. And my practice was to not deal with press.
8 In other occasions quite apart from this, I routinely
9 referred those to our local press officer and let her handle
10 it.

11 Q Do you recall any discussions with Mr. Cavanaugh
12 or the investigations head out there whether this was an
13 issue that should be elevated?

14 A No. In fact in my discussion with Dennis he and
15 I were of the same mind and that was that these -- it was
16 incumbent upon us to make sure that these reports -- these
17 potential irregularity reports were to be processed in the
18 normal course of the operation of both investigations and
19 legal. And he and I quickly agreed that that was essential
20 to this, and I assured him that I would do everything I
21 could to make sure that it was done just that way.

22 Q And was the reason this discussion was held
23 because of the person that was named?

24 A Yes, clearly.

25 Q And to your knowledge was that done?

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1 A Yes. I have no reason to believe that it wasn't
2 done. I am satisfied that it was, at least on his part,
3 done that way.

4 BY MS. DWYER:

5 Q Who advised you that the referrals did go on to
6 Justice and they were out of RTC? Do you have a
7 recollection?

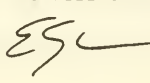
8 A Yes, a vague one. The individual that headed up
9 the responsibility for investigations here in Washington,
10 once I assumed that responsibility, the first line
11 supervisor was Jim Dudine, and he and I had direct dealings
12 from time to time. Not over this specific matter. And then
13 Bill Roelle who was responsible for that part.

14 I learned after the fact from Bill in one of our
15 regular meetings that the referrals had gone over to
16 Justice.

17 BY MS. HERLIHY:

18 Q One of your regular meetings when you were Acting
19 General Counsel?

20 A Yes, as Acting General Counsel. We met weekly,
21 Bill and I did. Tried to keep it regular, but obviously his
22 schedule and mine sometimes blocked that, but we would meet
23 weekly to -- with staff -- to go over cases, PLS cases.

24 And of course, it was Bill's vote and my vote that
25 furthered ~~the~~ matter along. 

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1 Q Do you know whether that information was shared
2 with Treasury, that information being that the referral had
3 gone out?

4 A I may have, but it would have been after the fact.

5 Q You may have shared it?

6 A Yes. I may have.

7 Q Who with?

8 A With either John Bowman or Jean Hanson.

9 BY MS. DWYER:

10 Q How would you have advised them of this?

11 A We had regular meetings, twice-weekly meetings.
12 And let me step back and explain this process because it was
13 in conjunction -- it was CEO Altman's desire that we meet
14 twice-weekly. This was something that he had apparently set
15 up when he had assumed responsibilities for RTC, and
16 continued through the time that I served as Acting General
17 Counsel. Those meetings were -- at the time Rick advised me
18 of this, it was set up for Tuesdays and Thursdays. Were
19 typically held over the lunch hour and typically involved
20 bringing lunch, sandwiches, into one of the conference rooms
21 off the chairman's office where we would sit down and review
22 matters.

23 These were large meetings and the RTC officials
24 that attended were, you know, in a minority, typically, but
25 it included Bill Roëlle and myself as Acting General

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1 Counsel.

2 I never went to the meetings prior to being
3 General Counsel. So it was Bill, the general counsel, and
4 when I was Acting, it would be me.

5 Lamar Kelly and some of his -- or some of his
6 aides when he was not in town.

7 But then it included the Thrift ~~Deposit~~ ^{Depositor Protection} and ~~ESC~~
8 Oversight Board, Deirdra Ford and a number of her staff, and
9 Treasury officials and their aides.

10 Mr. Altman made a point of attending, and did so
11 on a number -- I would say on a majority of time. Then --
12 well John Bowman would attend with me. But then whose the -
13 - one other deputy, oh, I can't think of his name, but the
14 room was full.

15 BY MS. HERLIHY:

16 Q Would Jean Hanson be there as well? ES

17 A ~~Not~~ ^{Most of the times} sometimes. She was certainly included if
18 she was available, but not always.

19 But the point is that surrounding those meetings,
20 Jean and I would typically meet as well, either before or
21 after. The reason for that is that soon after I started the
22 job here in Washington, the Thursday meeting, the venue for
23 that shifted from RTC's offices to Treasury's offices, so we
24 typically ended up at Treasury for at least one of the two
25 weekly meetings.

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1 So my interaction with Jean directly was frequent,
2 at least twice a week, sometimes more often and, of course,
3 at all times could rely on John to get information to her.

4 Q Let's go back to right when you came in --

5 A Yes.

6 Q -- as acting general counsel. The Madison matter
7 was pending, and you had early instructions that Jean Hanson
8 is the person you are going to deal with. What is the first
9 you recall having any discussion with Treasury, whether it
10 is Ms. Hanson or someone else about the Madison matter?

11 A Well, it was right in one of the early meetings
12 because I made a point of bringing with me a copy of the
13 legal opinion on the [REDACTED] criminal matters and sharing that
14 with Ms. Hanson and John Bowman.

15 BY MS. DWYER:

16 Q What time period are we talking about now?

17 A This would have been probably within a couple of
18 weeks of my having come to Washington.

19 BY MS. HERLIHY:

20 Q So the copy of it, and you just brought one copy
21 or you gave copies to them?

22 A I showed them the copy I had, and they may have
23 made a copy from that, I don't recall.

24 BY MS. DWYER:

25 Q Can we focus on the time period, can you try to

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1 narrow the time period down that you provided this
2 information to them?

3 A I don't have any notes that would tie it down.

4 Q September or October?

5 A I didn't come -- if I recall, I didn't come until
6 the very first of October.

7 Q Okay. So it had to be after October 1st.

8 A Yes, October 4 sticks in my mind. If that was a
9 Monday in '93, that would be --

10 MS. HERLIHY: I have a calendar.

11 BY MS. DWYER:

12 Q Do you have a copy of the legal opinion?

13 A I don't -- I don't know. Four, October 4 is a
14 Monday. I believe I started on that and I arrived on a
15 morning plane, and I was first introduced to Jean Hanson
16 over lunch, and it was Mr. Aboussie and myself, Jean, John
17 and Mr. McGivern, and it was subsequent to that that Jean
18 and John would have seen the memorandum. But when, I don't
19 know whether it was that week, later on that week or the
20 following week, but it was very soon after I came.

21 BY MS. HERLIHY:

22 Q Who would have been in attendance at the meeting
23 where you provided them the --

24 A I think just Jean and John and me, that was
25 typically the set up. It would be just the three of --

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1 well, later on she got an aide, and I don't recall her name,
2 but that was very -- that was later on in my tenure, almost
3 just before I left, some assistant started sitting in, a
4 young legal aide.

5 BY MS. DWYER:

6 [REDACTED]
7 [REDACTED] *SC*
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]

11 BY MS. HERLIHY:

12 Q Was this an issue that Ms. Hanson or someone else
13 at Treasury first asked you about, or did you initiate the
14 briefing on Madison?

15 A I don't recall, but it was clearly a matter of
16 sufficient sensitivity that I would have -- I could very
17 easily have initiated it simply because it was -- you know,
18 in all of these cases, especially PLS cases, where we go or
19 where we are involving high profile individuals, we make --
20 I mean the culture, my culture from the regional counsel
21 days is to make very sure that the people up the line are
22 aware that we are about to initiate something where there
23 are high profile individuals involved.

24 Q Do you recall any other examples of where there
25 were high profile individuals involved --

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1 A Oh, yes.

2 Q -- that you discussed with Treasury?

3 A With Treasury, no, but in my capacity as regional
4 counsel, I was regularly notifying Washington, the general
5 counsel here, or his deputy, Rick Aboussie at the time, that
6 we were -- you know, we were after somebody. And, you know,
7 the concern was that if it went public that at least the
8 highest levels within the organization wouldn't be caught by
9 surprise.

10 BY MR. DWYER:

11 Q What was their reaction when you provided them
12 this information? How did they react?

13 A The discussion was entirely on the process, how
14 were these -- you know, how were these matters initiated,
15 and how were they processed, reviewed and if the decision
16 was to file from what office that happened.

17 Q At this time had the referral already been sent
18 that you know?

19 A I don't think I was aware of it having been sent.
20 It may have been, but I was not at that time -- I learned of
21 it -- I learned that they had been sent well after this
22 period. So I was not aware at the time that they had been
23 sent even though they could have been.

24 Q So the legal opinion that you provided had a
25 summary of the [REDACTED] referrals?

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1 A Yes, as I recall.

2 Q And did they read that information when you
3 provided it to them?

4 A As well as you can in the course of a 20 minute or
5 30 minute conversation.

6 Q Did you think that they already knew this
7 information or was this, you know, something that they
8 hadn't expected to see, how did they receive it?

9 A Fairly matter of factly. I mean, it clearly was
10 not -- I had no indication that this was shocking
11 information to them. I mean, it was received very matter of
12 factly.

13 BY MS. HERLIHY:

14 Q Were you left with any impression of what they
15 intended to do with the information?

16 A No. And as I said, the discussion was clearly --
17 you know, it was exclusively on the process, how are
18 these -- how are criminal referrals generally processed by
19 the RTC.

20 Q And, again, if you could just explain your purpose
21 in sharing the information with them?

22 A That it was a high profile -- that in those
23 referrals there were high profile individuals, and it was
24 something that the CEO should be aware of.

25 BY MS. DWYER:

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1 Q Was there any discussion at this time that this is
2 nonpublic information and should not be released outside of
3 the Treasury Department?

4 A I don't recall any of that, I mean.

5 BY MS. HERLIHY:

6 Q Was there any discussion that this would be -- the
7 White House should be advised of this?

8 A Certainly not by me, and not by them to me.

9 Q And I know we have asked, again, but if you could
10 think back, do you recall leaving a copy of that or copies
11 having been made?

12 A My recollection was that a copy was made, and the
13 copy I brought was returned to me.

14 Q Were you -- do you recall whether you were ever
15 instructed to share this information with Treasury, or was
16 this something you did on your own?

17 A The responsibility, the formal responsibility, for
18 this was clearly in Bill Roelle's area since he headed up
19 investigations, and it was his department that was --would
20 make the decision to file or not file, and I do recall in a
21 discussion with Bill that he would take care of the matter
22 and that -- and the matter being notification to the CEO
23 that these referrals were in, you know, being processed.

24 I don't recall knowing at the time whether a
25 decision had been made, but he just assured me that he would

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1 take the responsibility of notifying the CEO of this.

2 Q So you were kind of duplicating efforts when --

3 A Yes. My principal concern was to provide the
4 principal legal advisor to Altman, CEO Altman, with
5 essentially a lawyer-to-lawyer presentation of this process.

6 Q So was the substance of your conversation or
7 conversations with Ms. Hanson on this more to do with the
8 criminal referral or the civil side of the case?

9 A It was exclusively the criminal referrals, simply
10 because that is all that a referral, possible criminal
11 action, covers. It does not cover a civil side.

12 Q But you were also generally aware of the civil
13 case from your position in Kansas City?

14 A Not specifically, no.

15 BY MS. DWYER:

16 Q Do you have any information pertaining to the
17 civil case?

18 A I am not even sure I could -- no, I don't -- I
19 don't think I could discuss it intelligently at this point.
20 I just don't -- my focus was on this more volatile criminal
21 referral.

22 BY MS. HERLIHY:

23 Q Do you recall any conversations about the [REDACTED]
24 [REDACTED]

25 A [REDACTED]

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1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]

6 Q So when you are having this discussion with Jean
7 Hanson, are you discussing whether or not the referrals
8 should, in fact, be sent forward?

9 A No. It was -- clearly not. It would have been an
10 unwarranted -- even if I had attempted to, believe me I had
11 no intention of interposing myself in that. It is not my
12 character. We had an advisory role to our client to serve,
13 I believe we served it very well in this regard, and that is
14 the end of our -- as I viewed it, the end of our
15 responsibility in this regard. If anything along that line
16 had come up, I would have dismissed it out of hand, and I am
17 sure it never did.

18 Q Do you know whether the opinion you gave them was
19 marked in any way "attorney-client work product" or
20 anything --

21 A Probably was, it probably was. I don't have any
22 specific recollection, but a lot of their work -- in fact
23 most of their work is so marked.

24 THE REPORTER: I am sorry, you said "attorney-
25 client work product" or "something and he covered up your

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1 question.

2 MS. HERLIHY: That was the core of my question.

3 BY MS. HERLIHY:

4 Q Do you think you have violated any sort of
5 privilege in sharing that information with Ms. Hanson or --

6 A I don't believe so, no.

7 BY MS. DWYER:

8 Q Did you have any discussions with any White House
9 officials on this?

10 A I did not, no.

11 Q Did you contact anyone? Did anyone contact you?

12 A I certainly did not contact anybody. I don't
13 recall anyone identifying themselves as being part of the
14 White House contacting me.

15 In fact, in the entire time that I served as
16 general counsel, I don't recall any communication from my
17 office to the White House, or from the White House to me
18 directly.

19 BY MS. HERLIHY:

20 Q Was there any discussion with Treasury officials
21 about the possibility of calling the President's counsel?

22 A No.

23 MS. DWYER: Do you recall Jean Hanson, or any
24 other Treasury official calling you to follow up on the
25 referral opinion that you provided?

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1 A Not on the opinion, no. But, I had misscated --
2 if I recall, at the time we discussed the process for, you
3 know, developing a criminal referral and preparing it for a
4 filing, I misspoke. And I can't remember on what -- what
5 specific area.

6 But I do recall calling her back and advising her
7 that my -- that I had misspoke on a particular aspect of the
8 process, and correcting that.

9 But I don't remember what it was. I just remember
10 a follow-up call to correct misinformation I'd given
11 earlier.

12 BY MS. HERLIHY:

13 Q When you left that meeting, what's your
14 recollection of the outcome of the meeting? Were there any
15 decisions made as to how to proceed?

16 A None. I mean, it was just a very typical -- what
17 would turn out to be a very typical meeting where we just,
18 you know, a survey of issues that I had before me and how I
19 intended to deal with them.

20 I rarely -- in fact, I don't recall any instance
21 where I was given instruction. I just simply advised her of
22 what issues were on my plate, and what I intended to do
23 about them.

24 BY MS. DWYER:

25 Q Was there any discussion that this would be

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1 something that they'd brief Mr. Altman on?

2 A I don't recall, but I would be -- I mean, my
3 purpose was to make sure that she understood, you know, from
4 a lawyer this process so that if and when it would come up
5 with Mr. Altman that she would be prepared.

6 Q Was the process you discussed at all, to your
7 knowledge, had there been press inquiries during this time
8 frame?

9 A I'm not aware of any. There ma have been within
10 the corporation, but not to my office.

11 Q Now, you indicated they did not seem surprised by
12 the information. Do you remember them acknowledging in any
13 way that they had heard of this, at the time?

14 A No.

15 Q You said you had no contact with the White House.
16 Are you aware of any other -- whether it's RTC or Treasury
17 employee -- who had contact with the White House on this
18 matter?

19 A No.

20 Q Do you know of any personal benefit that would
21 have been derived by the Treasury officials from you sharing
22 this information?

23 A No. No.

24 Q Or for you, personally?

25 A No.

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1 Q Did you participate in any discussions with RTC or
2 Treasury officials regarding Altman's recusal of this
3 matter?

4 A No.

5 BY MS. HERLIHY:

6 Q You mentioned Mr. Aboussie before. Did you say
7 you had discussed this matter with Mr. Aboussie?

8 A No. No. My reference to Mr. Aboussie was when he
9 asked me to come and serve in acting General Counsel
10 capacity, of course, I was curious what the protocol was,
11 you know, what the daily, weekly and monthly routines were,
12 you know, for the General Counsel. And, you know, we went
13 over that in some detail.

14 And in the course of that I learned that these,
15 you know, twice weekly meetings were pretty well-fixed over
16 the noon hour, and I should expect to attend those.

17 So it was in that context that this came up.

18 Q What did you believe your legal authority to be
19 for sharing information with anyone at Treasury other than
20 Mr. Altman?

21 A Well, as I indicated earlier, it was apparent to
22 me that my contact, my sole contact, my principal contact,
23 certainly, for any matters relating to RTC coming from the
24 General Counsel's Office were to be communicated through Ms.
25 Hanson. That she was essentially responsible then to

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1 provide, you know, to inform the CEO, the interim CEO.

2 And that to me appeared -- did then, still does -
3 - appears to be an entirely acceptable process. That he
4 would have appointed her as his principal legal adviser on
5 RTC affairs seems to me to be acceptable.

6 And I operated that way and there was nothing in
7 the course of my tenure, either from her or from others at
8 Treasury, indicating that that wasn't to be the case.

9 The other individual that attended these meetings
10 regularly from Treasury, their names -- is Frank Newman.

11 And I did deal -- not frequently, but directly
12 with Mr. Newman on occasions. Typically, before or after
13 meetings, never apart from these twice weekly meetings.

14 Q Well, after the first meeting that you discussed
15 Madison, do you recall follow-up meetings or telephone
16 conversations with Treasury on this?

17 A Not really, no.

18 Q Were you ever asked for any additional information
19 from Treasury?

20 A Not me, no.

21 Q Did you ever share the actual criminal referral
22 with anyone else?

23 A I didn't have them, no. I didn't.

24 Q Did you ever seek advice from anyone at RTC before
25 sharing the information with Treasury?

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1 A Not that I recall, no.

2 BY MS. DWYER:

3 Q Are you aware of any written guideline applying to
4 RTC employees with regard to handling the disclosing of
5 information about the PLS cases, or criminal referrals?

6 A Uh, there may be. I don't have any direct
7 recollection of them.

8 Q What is your understanding of your responsibility
9 concerning the disclosure of nonpublic information?

10 A It is to be held within the organization. You can
11 draw a very nice line as to nonpublic and public
12 information. Potentially under FOIA, anything that is in
13 the way of a record and part of a body of work that becomes
14 a final decision has the potential, anyway, of going public.
15 Certainly after the decision has been made.

16 In this case -- in our case where we had an
17 interim CEO with responsibilities to Treasury and to head up
18 RTC, the line between where RTC stopped and Treasury began
19 wasn't always very clear and, as I indicated earlier, it was
20 apparent to me that Ms. Hanson and John Bowman, especially,
21 were part of the RTC family for those purposes, in advising
22 the CEO, the interim CEO of RTC.

23 Q Did you receive an ethics briefing that covered a
24 variety of subjects, most importantly the improper
25 disclosure of nonpublic information?

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1 A I am sure somewhere in my career I have. I am,
2 incidentally, part of my duties then and as far as I know
3 part of my duties that continue to this date, is a deputy
4 ethics counselor.

5 Q So to your knowledge, did you violate any ethics
6 standards by sharing this information with --

7 A I don't believe so.

8 Q Are you familiar with the RTC Standards of
9 Conduct?

10 A Not -- I am not conversant with them. That
11 something like that exists broadly, yes.

12 Q You know it does exist?

13 A Yes, yes.

14 Q And if need be, we would seek that document, too,
15 getting the type of answers to questions that would come up?

16 A I didn't catch the rest of your question.

17 Q With respect to standards of conduct, if necessary
18 you would know where to go to get that information?

19 A Oh, sure.

20 Q If necessary. You do know that it does exist?

21 A I do know that it does exist and could probably,
22 with help of those that are -- whose duty it is on a daily
23 basis to keep those current, yes, I am sure I could locate
24 those documents on a -- when needed.

25 BY MS. DWYER:

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1 Q Is there anything else that you wish to add?

2 A No.

3 BY MS. HERLIHY:

4 Q Is there anything on this subject we haven't asked
5 you that --

6 A No, not that I'm aware of.

7 Q Can you think of anyone else that may have
8 information on this matter?

9 A In my role, probably not. I mean, I think I have
10 named the principal figures that I dealt with in this
11 context and in my broader context as acting general counsel
12 for RTC.

13 Q So just --

14 MS. DWYER: Go ahead.

15 BY MS. HERLIHY:

16 Q Just to summarize then, you first learned of the
17 Madison issue while it predated your coming to -- or the
18 Madison issue was a pending issue when RTC started, Madison
19 Guaranty?

20 A Yes.

21 Q When you became regional counsel in Kansas City,
22 the Madison matter was one of those that you inherited early
23 on?

24 A The state -- yes, yes, okay.

25 Q You first learned of the criminal referral when

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1 this attorney came to you regarding the PLS opinion and the
2 time frame that she was given to render the opinion?

3 A Yes. As I recall, Madison Bank had failed, or it
4 may have even predated the creation of RTC. So the
5 receivership estate -- let me back up. The conservatorship
6 or the receivership estate was in being at the time my
7 office was responsible for Arkansas. So I was generally
8 aware of such an institution being a failed institution and
9 in -- made part of the RTC responsibilities.

10 Very much after that -- you know, this goes --
11 that would be '89, summer or fall of '89.

12 As to my specific knowledge about the criminal
13 referrals, that did not occur until probably September of
14 '93.

15 Q When this attorney came to you?

16 A Asking that I get more time for her staff to
17 complete the analysis of the referrals, yes.

18 Q Now, at that time, did you tell us you reported to
19 any of your superiors on the fact that a referral naming
20 Mrs. Clinton was in the works?

21 A I don't recall. But it certainly -- it is
22 something that I would very likely have done simply because
23 of the import of the information.

24 Q It would seem to me that if you felt once you
25 became acting general counsel that it was something you

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1 needed to elevate to Treasury that you may have done so
2 internally when you were regional counsel?

3 A Not directly with Treasury. If I did it, it would
4 have been --

5 Q No. But to your superiors at RTC?

6 A Correct. And that would have been --

7 Q But you do not recall --

8 A That would have been Rick Aboussie and his staff.
9 Yes.

10 Q Okay.

11 At any point, in any of your discussions on
12 Madison, did you ever feel pressured in any way from RTC,
13 Treasury or others to share this information?

14 A Not at all.

15 Q And your meeting, your initial meeting with
16 Treasury on this, was self-initiated? You brought it up.

17 A The meeting -- the meeting was not. It could well
18 have been that, yes, that I initiated that.

19 Q You weren't directed by someone else to raise the
20 issue?

21 A No. But again, my -- my concern then was and now
22 would be that, you know, in any activity that involves high
23 profile individuals, it is very important that that get
24 communicated to the highest levels. And that was what
25 prompted me, would have prompted me.

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1 MS. DWYRE: Can we go off the record?

2 [Discussion off the record.]

3 BY MS. DWYER:

4 Q We appreciate your cooperation today and request
5 that you keep the discussion with us confidential.

6 A Okay.

7 Q However, there are other ongoing lawful
8 investigations concerning these matters and we encourage you
9 to cooperate with them. Our request that you keep our
10 discussion confidential is not a request that you not answer
11 questions about the underlying facts from other
12 investigators.

13 A Okay, I understand that.

14 MS. DWYRE: Thank you for your cooperation,
15 Mr. Curtis.

16 MS. HERLIHY: Thank you.

17 THE INTERVIEWEE: You're welcome. You're welcome.

18 [Whereupon, at 12:15 p.m., the interview was
19 concluded.]

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Cc:
Bcc:
From: E. Glion Curtis@Legal@ATLDOL
Subject: Correction to My Statement of 8 July 94
Date: Tuesday, July 12, 1994 10:20:41 EDT
Attach:
Certify: N
Forwarded by:

I believe that I said, in my sworn, oral, statement which I made in your presence on July 8, 1994, that Jean Hanson, General Counsel, Treasury, did not normally attend the twice weekly senior staff meetings that RTC had With senior Treasury and TDPOB staff. On further reflection, I now believe that that is incorrect. I believe that she did attended most of the meetings that I attended, during the period October, 1993 through December 1993.

Please add this to any transcription of my statement.

OFFICE MEMORANDUM

Federal Deposit Insurance Corporation

DATE: July 22, 1994

MEMORANDUM TO: Lew W. Sherman
Deputy Assistant Inspector General for Investigations, RTC

FROM: E. Gilon Curtis
Regional Counsel
Southeast Service Center

SUBJECT: Statement of E. Gilon Curtis in the Matter of
White House Contacts Concerning the
Madison Guaranty Savings & Loan

As requested, I have read the transcript of my statement given: In the matter of: White House Contacts concerning the Madison Guaranty Savings and Loan, on Friday, July 8, 1994, consisting of 44 pages. As further requested, I have made changes and corrections to the transcript and initialed them. I am returning the corrected copy herewith.

EGC/mec
Attachment

Redacted

Madison/Whitewater

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X000097

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X000098

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X000099

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X000112

8



WHITEWATER/MADISON: TREASURY INVOLVEMENT

Question:

Have any other officials of the Treasury Department been involved in any substantive discussions relating to the RTC's handling of Madison or related matters?

Answer:

-- I and a very limited number of my Treasury staff have been briefed generally by RTC staff on a variety of issues related to the RTC's review of the Madison matter. Topics include:

-- RTC procedures related to document requests including the types of information that are releasable in the ordinary course to members of the public, members of the Congress acting in their individual capacity and as a Committee of the Congress;

-- a general discussion of the causes of action that might be available to the RTC that fall within the extension of the statute of limitations contained in the RTC Completion Act;

-- the normal criteria applied by the RTC in seeking an Authority to Sue, tolling agreements with potential defendants, etc.; and,

-- the applicable statute of limitations and a chronology of the Madison matter beginning in 1989 with the seizure of the institution by the FDIC, the expiration of the FIRREA statute of limitations in 1992 and the revival of certain types of actions under the Completion Act and the further extension via the California Earthquake Relief Act;

-- During my service as the Interim CEO of the RTC I have had members of my Treasury staff sit in on a variety of briefings and discussions related to RTC matters. For instance, since I was appointed Interim CEO of the RTC I and members of my Treasury staff have had a standing Tuesday luncheon involving senior members of RTC including the Deputy CEO, the General Counsel and the Senior Vice President for Minority and Women's Business. Topics discussed during the course of these regular meetings include the implementation of the recently approved Completion Act.

-- No discussions of the actual decisions to be made by the RTC as to whether any claims exist and should be pursued against specific persons in connection with Madison have been held by me or other Treasury staff.

X000114



10

WHITEWATER/MADISON:

Question:

Why has the Treasury General Counsel been so active in this whole matter? She has no responsibilities at the RTC.

Answer:

The Treasury General Counsel to my knowledge has not been active in the Madison matter. The RTC's General Counsel has been directing its efforts and has counseled me about the procedures being followed in the investigation.

X000105

✓

What Conversations Have You Had with the White House on this Matter?

I've had one substantive conversation. Approximately three weeks ago, Jean Hanson (Treasury General Counsel) and I requested a meeting with Mr. Nussbaum, White House Counsel.

The purpose of the meeting was to describe the procedural reasons for the then impending February 28 deadline: the Completion Act, the statute of limitations was retroactively reinstated for certain types of civil claims (those relating to fraud and certain claims relating to intentional misconduct); as it related to Madison Guaranty, it would expire the end of February. Finally, if the RTC were to determine that any such claims existed, the RTC would have to determine whether to seek a tolling agreement or commence litigation.

We made clear that we had no idea at all what decision would be reached. I did say, however, that if I received a clear recommendation from the RTC's chief legal officer, I would follow it. I also said that I was reserving judgment on a recusal.

We were only asked one question. Did the RTC intend to provide the same briefing on the RTC's processes to attorneys for the parties in interest. I said that I assumed so but would check with the RTC General Counsel.

Jean Hanson did check and was told "in due course." "I said fine".

THE WHITE HOUSE

WASHINGTON

July 27, 1994

The Honorable Henry B. Gonzalez
Chairman
U.S. House of Representatives
Committee on Banking, Finance and Urban Affairs
One Hundred Third Congress
2129 Rayburn House Office Building
Washington, D.C. 20515-6050

Dear Chairman Gonzalez:

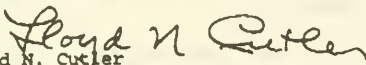
Yesterday I was asked a series of questions relating to a meeting between the President and Governor Jim Guy Tucker on October 6, 1993. I have made inquiries about that meeting and would like to report to the Committee what I learned.

The meeting took place at the request of Governor Tucker who was in Washington to meet with the Arkansas congressional delegation. It began at 3:45 p.m. and lasted about 40 minutes. I am attaching a Memorandum prepared for the President in advance of this meeting, which shows that the purpose of the meeting was for the President to accept a copy of Governor Tucker's proposal for locating a Defense finance and accounting servicing facility in Arkansas. (Governor Tucker's proposal was declined by the Department of Defense.)

Mr. Keith Mason, Deputy Assistant to the President for Intergovernmental Affairs, was present for the entire meeting. He has confirmed that the subjects of Whitewater, RTC criminal referrals or Madison Guaranty were never discussed. I have reviewed Mr. Mason's detailed notes of this meeting and find no mention of anything even remotely related to the RTC investigation. According to Mr. Mason's recollection of the meeting and his notes, in addition to the Defense facility, Governor Tucker also raised issues related to Medicaid funding, an FDA research facility, interstate highway financing, National Guard cutbacks, and NAFTA.

I trust this further elaboration will put any questions about this meeting to rest.

Sincerely yours,


Lloyd N. Cutler
Special Counsel to the President

THE WHITE HOUSE

WASHINGTON

October 5, 1993

MEETING WITH GOVERNOR TUCKER

DATE: October 6, 1993
 TIME: 3:45 pm
 LOCATION: Oval Office
 FROM: Marcia L. Hale ^{mt}
 Dawn M. Friedkin ^{mt}

I PURPOSE

You will meet with Governor Tucker to accept a copy of a proposal for locating one of the planned Defense finance and accounting servicing facilities in Arkansas.

II BACKGROUND

Governor Tucker is in town for a meeting with the Arkansas delegation. He requested a meeting with you to deliver a copy of a proposal for locating one of the planned Defense finance and accounting servicing facilities in Arkansas at Camp Robinson. The Governor sent the original report to Secretary Aspin on October 4.

Drake Keith and Cecil Alexander are accompanying the Governor to Washington and the White House. They do not expect to join you and the Governor in the Oval Office. However, you may want to invite them in at the end of the meeting for a photo.

You should be aware that the Governor will be unable to join you on your conference call with governors on Thursday morning, because he will be enroute back to Arkansas. You may want to use this opportunity to discuss the governors roles in the NAFTA effort.

III. PARTICIPANTS

The President
 Governor Tucker
 Marcia L. Hale
 Drake Keith (to join for photo only)
 Cecil Alexander (to join for photo only)

IV. PRESS PLAN

White House photo only.

V. SEQUENCE OF EVENTS

The President will greet Governor Tucker and accept the proposal in the Oval Office. At the end of the meeting The President will invite Drake Keith and Cecil Alexander in for a photo.

VI. REMARKS

None required.

CONGRESSMAN LAZIO (FOR THE RECORD)

.10/14

Diary

- on Whitewater, Maggie told me that HRC was "paralyzed" by it.
- if we don't solve this "within the next two days" ... you don't have to worry about her schedule or health care
- we went over to see George on Whitewater yesterday; to argue for "kicking the boil"
- Maggie's strong inference was that he will ~~was~~ trying to negotiate the sale of his independent counsel with ~~fine~~ ^{fine} ~~and~~ ^{and} ~~hiring~~ ^{hiring} ~~summers~~ ^{difficultly}
- HRC "doesn't want (the counsel) poking into 20 years of private life in Arkansas"

11/91

D

- he had been asked to come to with to speak to President when
 Whitewater (together with Peick, Riley & Babbitt); but
 Christine Vane rushed over to urge him not to do it because
 Pres. reports brought me to her, he took her advice.

2985

1/5/84

D

- unfortunately, we've mislabeled parts of this: handling of the Clinton
personal file for poor Vince Foster's office to R's personal lawyer
delay in providing her to DOJ;

2989

One Highwoods Road
St. James, NY 11780-9609
27 July 1994

Honorable Lloyd N. Cutler
Counsel
The White House
Washington, DC

Sir:

Yesterday you invoked the memory, the name and a quote from the Honorable Joseph N. Welch.

I served Joe Welch throughout the Army-McCarthy Hearings as his Special Military Aide. I was with him every day before, during and after those prolonged Senate hearings.

Joe Welch believed in total disclosure and wanted all the facts on the table for the American people to decide who was telling the truth regarding the charges and countercharges involved.

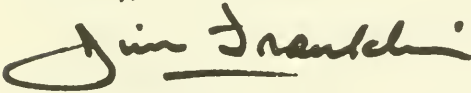
You personally and officially are part of a disgraceful cover-up involving some of the highest officials of our nation, including The President and spouse.

Clinton is not Ike, Hillary is most assuredly not Mamie and you, sir, are no Joe Welch.

Shame on all of you.

The best advice you can give your White House clients is to come clean.

Sincerely,

A handwritten signature in dark ink, appearing to read "Jim Franklin". The signature is fluid and cursive, with a large loop at the beginning and a horizontal line extending from the middle.

James Rynd Franklin

DEPARTMENT OF THE TREASURY

TREASURY



NEWS

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EMBARGOED UNTIL DELIVERY
Expected at 9:30 A.M.

STATEMENT OF JOSHUA L. STEINER

CHIEF OF STAFF

U.S. DEPARTMENT OF THE TREASURY

BEFORE THE COMMITTEE ON BANKING,
HOUSING, AND URBAN AFFAIRS
UNITED STATES SENATE

AUGUST 2, 1994

LB-1004



August 2, 1994

Mr. Chairman, Senator D'Amato, Members of this Committee:

My name is Joshua Steiner and I serve as the Chief of Staff at the Department of the Treasury. Before joining the Treasury Department, I was Executive Assistant to Timothy Healy, the President of the New York Public Library.

I am here today to answer your questions and help clarify any outstanding issues concerning contacts between the Treasury Department and the White House on the Resolution Trust Corporation's investigation of Madison Guaranty. I have cooperated fully with all investigations into this matter including those conducted by Mr. Fiske, the Office of Government Ethics and Congressional committees.

Several members of this Committee have commented on my personal diary and, if I might, I would like to make one brief point about it.

I started keeping this diary nearly six years ago. I would write in it fairly infrequently -- sometimes every two weeks, other times six weeks would go by before I made an entry. Indeed, some of the entries of interest to this Committee describe events that occurred nearly a month before I wrote about them.

I made no effort to check the accuracy of my diary because this was never intended to be a precise narrative or a verbatim account of what took place. At times, it included impressions of meetings that I did not even attend. It was, more than anything, a way to reflect on events and draw lessons from my personal and professional experiences.

Today, you will ask me questions under oath and I hope my answers will clarify the entries I made in my diary. Since the time I first made these entries, I have had a chance to reflect about precisely what I know.

I wish that my diary was more accurate, but I take my responsibility to this Committee very seriously and I feel obligated to present the facts as truthfully as I possibly can.

Thank you.

HENRY B. GONZALEZ, TEXAS, CHAIRMAN
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U.S. HOUSE OF REPRESENTATIVES
 COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS

ONE HUNDRED THIRD CONGRESS
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 WASHINGTON, DC 20515-6050

June 27, 1994

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 PETER KING, NEW YORK

RODMAN SANDERS, VERMONT

DD 216-4147

The Honorable Roger C. Altman
 Deputy Secretary of the Treasury
 Department of the Treasury
 1500 Pennsylvania Avenue, N.W.
 Washington, D.C. 20220

Dear Mr. Altman:

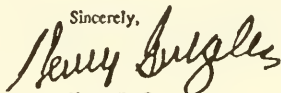
The Committee on Banking, Finance and Urban Affairs will hold hearings on various aspects of the failure of Madison Guarantee Savings and Loan (Madison). In order to assist the Committee please provide copies of all records in your possession or under your control, regardless of format, related to the following:

1. The posthumous handling of documents within Vincent Foster's office;
2. Contacts between White House officials and officials of the Treasury Department and the Resolution Trust Corporation (RTC) related to Madison and Whitewater Development Corporation (Whitewater);

Please deliver records to Mr. Dennis Kane or Mr. Joseph Reilly, Room 2129 Rayburn House Office Building, Washington, D.C. 20515, no later than the close of business, July 8, 1994. Questions related to this request should be directed to Mr. Kane or Mr. Reilly, at (202) 225-4247.

Thank you for your time and cooperation. The Committee looks forward to your timely reply.

Sincerely,



Henry B. Gonzalez
 Chairman

HBG:dk

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 (PQ) 225-4247

August 1, 1994

Ms. Jean Hanson
 General Counsel
 United States Department of the Treasury
 1500 Pennsylvania Avenue, NW
 Washington, DC 20220

Dear Ms. Hanson:

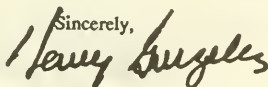
Pursuant to the bipartisan House Resolution 394, and the recent bipartisan House Leadership agreement, the Committee on Banking, Finance and Urban Affairs will hold a series of hearings on the Washington phase of the so-called Whitewater affair. I respectfully request that you testify at the third hearing on August 3, 1994, at 9:30 a.m., in Room 2128, Rayburn House Office Building.

Your testimony should focus on your contacts with the White House and the Resolution Trust Corporation (RTC) related to Madison Guaranty Savings and Loan.

Committee rules require that 200 copies of your written testimony be delivered to Room 2129, Rayburn House Office Building, no later than the close of business August 2, 1994.

Thank you for your consideration. The Committee looks forward to your testimony.

With best wishes,

Sincerely,


Henry B. Gonzalez
 Chairman

HENRY B. SCHLES, TEXAS, CHAIRMAN
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(202) 225-4347

Mr. Dennis I. Foreman
 Deputy General Counsel
 United States Department of the Treasury
 1500 Pennsylvania Avenue, NW
 Washington, DC 20220

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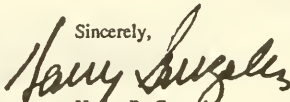
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Thank you for your consideration. The Committee looks forward to your testimony.

With best wishes,

Sincerely,



Henry B. Gonzalez
 Chairman

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August 1, 1994

Mr. Joshua Steiner
 Chief of Staff to the Secretary
 United States Department of the Treasury
 1500 Pennsylvania Avenue, NW
 Washington, DC 20220

Dear Mr. Steiner:

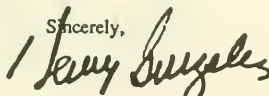
Pursuant to the bipartisan House Resolution 394, and the recent bipartisan House Leadership agreement, the Committee on Banking, Finance and Urban Affairs will hold a series of hearings on the Washington phase of the so-called Whitewater affair. I respectfully request that you testify at the third hearing on August 3, 1994, at 9:30 a.m., in Room 2128, Rayburn House Office Building.

Your testimony should focus on your contacts with the White House and the Resolution Trust Corporation (RTC) related to Madison Guaranty Savings and Loan.

Committee rules require that 200 copies of your written testimony be delivered to Room 2129, Rayburn House Office Building, no later than the close of business August 2, 1994.

Thank you for your consideration. The Committee looks forward to your testimony.

With best wishes,

Sincerely,

 Henry B. Gonzalez
 Chairman

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August 1, 1994

Mr. Jack Devore, Jr.
 6100 Ginitia
 Austin, Texas 78739

Dear Mr. DeVore:

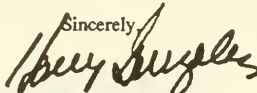
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Thank you for your consideration. The Committee looks forward to your testimony.

With best wishes,

Sincerely,

 Henry B. Gonzalez
 Chairman

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